

The Massachusetts Trial Court in 2023 and Beyond: Improving Online Capabilities and Increasing Access to Justice

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Author Biographies

Demetrios Karis received a Ph.D. from Cornell University in experimental psychology. After spending five years doing research at the University of Illinois in a cognitive psychophysiology lab, he moved to industry, first at Grumman Aerospace, and then at GTE Labs and Verizon Labs. At GTE and Verizon, Demetrios worked on user interface design and evaluation of consumer products and services, as well as conducting applied research. After Verizon, he started teaching at Bentley University in the Human Factors and Information Design Department, while also working as a contractor at Google, Fidelity, and other companies. In 2019 he started working with his graduate students at Bentley on research projects with the Trial Court, and continued with a group of volunteer user experience researchers (the Independent Court UX Team). Demetrios has multiple patents and several dozen publications.

John Huitema earned a Ph.D. in Cognitive Psychology from the University of Massachusetts at Amherst and was awarded a fellowship by NIH to pursue post-doctoral research at the University of Illinois. He subsequently joined GTE Labs (later Verizon Labs) and spent the rest of his career there, working on user interface design and usability testing of websites and mobile apps. At Verizon he led a project to make sure that customer-friendly, non-technical language was used on Verizon phones. He has been volunteering with the Massachusetts Trial Court since the beginning of 2021.

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For the last three years we have worked on a variety of projects focused on improving the user experience of pro se litigants and others who interact with the Trial Court. John Laing (Chief Experience and Diversity Officer) and personnel from his department have guided and supported us in these studies as well as in this one. For this project, we also received assistance from Kevin Buckley (Senior Web Manager), Michelle Ciccarelli (Digital Content Manager), Steven Duncan (CIO), Mary Rafferty and James Morton (both from the Executive Office of the Trial Court), and Elizabeth Cerda (formerly the Access to Justice Coordinator). Sheriece Perry and Carolin Hetzner provided comments on an earlier draft, as well as information and access to the Court Service Centers. Sheriece and Carolin also answered a variety of our questions in great detail throughout the year. Multiple managers and staff at the Court Service Centers welcomed and helped us in many ways. Pavitra Chari, Meg DeMarco, Thayse Mendonca, and Erin Harris also provided tremendous support, and we met with them regularly to discuss this report and a variety of user experience issues.

Table of Contents

Executive Summary	7
Introduction	11
Background and Overview	11
Topics We Don't Address	12
"Why So Negative?"	13
Limitations of Our Research	14
The Judicial Websites of Other States	14
How We Did Our Research	16
Formal Interviews	16
Informal Interviews at Courthouses	17
Improving Access to Justice	19
Improving Online Capabilities is Only One Part of Ensuring Access to Justice	19
Self-Represented Litigants, Self-Help Tools, and Reducing Disparities in the Court System	21
Structural Issues in the Court System	24
Consistency and Uniformity are Fundamental	25
Recommendations: Online Capabilities	27
Existing Capabilities that Should be Improved and Expanded	27
eFiling	28
Filing by Email	29
eReminder	30
eSignatures	32
ePayment	33
eService	34
Virtual Court Service Center and Other Remote One-on-One Services	34
eDelivery for Attorneys and SRLs	38
Guide and File	39
For the Record (FTR)	41
MassCourts	42
New Capabilities We Recommend Adding	50
Online Dispute Resolution & Online Mediation	50
Real-time Schedule Information for Proceedings	51
Moving Courthouse Proceedings Online	52
Requests for Disability Accommodations	53

Electronic Notarization (e-Notarization)	54
Self-Service Portal	54
Translated Forms	56
New Capabilities that are Potentially Useful	56
Chatbots & Virtual Assistants	57
Live Streaming & YouTube Channels	58
Online Triage	58
Scheduling Tools	59
Transportation Subsidies	60
Appointment Booking	60
Paying at Retail Stores	61
Calculators	61
Quick Exit	61
Recommendations: Online Information	62
Information for Pro Se Litigants	62
How Can I Get Help?	62
How Does My Legal Procedure Work?	64
What Do I Do in the Courtroom?	66
Information for Specific Groups of People	68
Information for Attorneys	68
Finding Out About Court Proceedings	68
Court Schedules	70
Information about Courthouses	70
Directories and Trial Court Law Libraries	71
Recommendations: Best Practices for Designing a New Access to Justice Website	73
Mobile Friendly	73
Organization	73
The Home Page is Important	75
Plain Language	75
A Note about PDFs and Word Documents	76
Staying Within the Site	77
Comprehensiveness	77
Usability Testing	77
Recommendations: Legal Proceedings, Forms, Courthouses, and Services	79
Legal Proceedings	79
Lack of Uniformity is a Challenge	79

Handling Matters Administratively	80
Dispute Resolution	81
Default Problems	81
Information but not Advice	83
Legal Forms	84
Zoom and Remote Proceedings	89
Courts & Courthouses	92
Information at Court Entrances	93
Zoom Rooms	94
Partnering with Libraries, and Public Kiosks	94
Technology	96
Court Staff	97
Communicating with the Court	98
Court Service Centers	99
Nonlawyer Navigators	100
Miscellaneous Suggestions	102
Interpreters	103
Conclusion	107
Summary	107
Limitations and the Work Ahead	108
References	111
Appendix 1: eFiling	113
Appendix 2: Additional Information and Representative Quotations	117
Appendix 3: SRL Stories	121
Appendix 4: The Court's Strategic Plan and KPIs	123
Appendix 5: User Experience Information and Usability Problems	125
The Six Levels of UX Maturity	125
Plain Language & Readability Formulas	125
Mass.gov	128
Tracking User Experience Problems	129
A Sample of UX Problems We Observed	129
ePay	129
MassCourts.org Home Page	130
Court Forms	131
What the Chatbot Says	133

A Serious Problem with PDFs	134
Appendix 6: List of Recommendations	136
Appendix 7: Feedback on this Report from Court Personnel and Attorneys	149

Executive Summary¹

Purpose

At the request of the Court Management Advisory Board and the Trial Court, we conducted research to answer the question:

What should the Trial Court do to improve its online capabilities?

We interviewed more than 50 attorneys, court employees, and self-represented litigants (SRLs), and we made dozens of visits to courthouses, looked at the judicial websites of other states, examined court forms and other documents, studied recent research reports, and made use of data from court surveys and online feedback. As a result, we also identified answers to the question:

How can the Trial Court improve the experience of self-represented litigants, thereby improving access to justice?

Existing Online Capabilities that Should be Improved and Expanded

As one attorney put it, “the more you can do online, the better.”

The existing online capabilities below are the most important ones for the court to expand and improve, according to our research:

• eFiling • eReminder • ePayment • Virtual Court Service Center and other virtual services	• eDelivery • Guide and File for submitting certain forms online • MassCourts
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We provide more detail about each one in the report, including direct quotations expressing the experiences and opinions of attorneys and court personnel. We include additional recommendations beyond these major ones throughout the report, and list the top 125 recommendations in a table in [Appendix 6](#).

¹ This report is available as a Google Document. If you want to follow some of the URLs and are reading it in another format, you may want to read the Google Doc version instead. Here is the link: <https://tinyurl.com/52uz5adk>

New Capabilities We Recommend Adding

In addition to expanding existing capabilities, there are new online functions we recommend adding. The following are the most important ones, and more are discussed in the report:

• Online Dispute Resolution • Requests for Disability Accommodations • Online Triage to direct users to the best information for their needs	• A Self-Service Portal providing customized information about the status and next steps for an individual's case
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Providing Better Information for SRLs

For many common legal procedures that people undertake without representation (e.g., child custody or support, divorce, eviction), few SRLs understand what they need to do, where they need to go, the time frame involved, the required forms and fees, and so on. We offer recommendations on how to include information on Mass.gov that will answer the following important questions for SRLs: “How can I get help?,” “How does my legal procedure work?,” and “What do I do in the courtroom?”

Providing Better Information about Court Procedures for Attorneys

Until procedures are more uniform across the Trial Court, it needs to be easier for attorneys to understand the differences and changes in court operating procedures across court departments, counties, and even courthouses. We recommend that information about individual court operating procedures be published online, along with the results from bench-bar meetings.

Moving Courthouse Proceedings Online

Since proceedings first moved online as a result of the COVID-19 pandemic, the Trial Court has collected convincing evidence about where the use of videoconferencing for court events should be permitted, and we recommend that the court formalize what is now inconsistently implemented – the use of videoconferencing for short and time-sensitive administrative court events, especially when there is little need for evidence or witness testimony.

Website Design Recommendations

To help with future changes to the Trial Court's online presence, we provide recommendations, and references, on best practices for designing court websites that are easy to use and meet people's needs.

Courthouses, Services, and Forms

Our research identified many ideas for improving aspects of court functioning that are not online. Some of the most important that we recommend are:

- Add indoor maps of each courthouse on Mass.gov and also show information about the existence and availability of Zoom rooms.
- Increase the staffing of the Court Service Centers and make them available every business day, all day long. Have the Virtual Court Service Center open at least one night during the week.
- Set up greeting/information desks in the lobbies of large courthouses and run them for at least the first two hours of the day. There should also be visible information immediately past security about free legal services (in-person and virtual), the court service center, Zoom rooms, and a map and directory for the larger courthouses.
- Devote additional resources to improving forms, so that SRLs can easily fill them out correctly. Many current forms lack directions, use legal terminology that is unfamiliar to people outside the court system, and are confusingly organized. Improving forms is one of the most impactful near-term improvements the Trial Court can do to help SRLs.

Consistency and Uniformity are Critically Important

We heard repeatedly that there are inconsistencies and a lack of uniformity throughout the Trial Court in procedures and court forms, and that this creates difficulties for attorneys, SRLs, and anyone trying to create explanatory materials about forms or procedures. Consistency and uniformity are critical, and we provide many examples of problems that arise when procedures, forms, and other aspects of the legal system vary across court departments, counties, and even courthouses.

The Need for User Experience (UX) Professionals

The Trial Court would benefit greatly by staffing a dedicated UX group to support all Trial Court development plans. By applying user-centered design principles, iterative design with usability testing, and developing UX metrics (see [Appendix 4](#)), the court can make dramatic improvements to all aspects of its operation. This should include both external- and internal-facing systems.

Technology Does Not Guarantee Access to Justice

It is important to keep in mind that although improving online information and capabilities will help many people, it will never by itself be sufficient to ensure equal

access to justice. Many SRLs have limited technical ability, do not own computers, and although they may have mobile phones, they often have limited available minutes. Our report's emphasis on improving the Trial Court's online capabilities should not obscure the continuing need for direct one-on-one assistance by the Court Service Centers and legal aid organizations.

Limitations of this Report

Our report is not, in any way, a comprehensive overview of the Trial Court. We focus primarily on SRLs and attorneys who practice in civil rather than criminal proceedings. We do not discuss the current eCourts projects focused on developing a completely digital case flow. Nor do we discuss what we assume are some of the top priorities of attorneys, such as obtaining prompt hearings on motions and trial dates. We also do not address the serious backlog problem within parts of the Trial Court. This report is just one piece of a large puzzle, and we were reminded of how many other issues there are to address when we read the plans and milestones for each of the court departments in the appendix to the new strategic plan.

How to Read this Report

We suggest focusing on the sections of most interest to you, either by looking through the Table of Contents or by skimming through the report itself. There is a list of all important recommendations in [Appendix 6](#), but there are dozens of additional recommendations presented throughout the report. We have also included an [Appendix 7](#), where we will include any corrections, elaborations, or other feedback we receive from early readers of this report by court personnel and attorneys.

Our goals are to provide:

- A better understanding of the challenges that attorneys and SRLs face as they interact with the Trial Court, often in their own words
- Ideas for improving and adding to the court's online capabilities
- Guidelines for designing improved Trial Court web pages
- Recommendations for improving offline aspects of the court's operations
- A reference document for new court employees, attorneys, and outside researchers to introduce them to current problems and relevant recent research reports on the Trial Court

Introduction

Background and Overview

In response to the COVID-19 pandemic that began in 2020, the Massachusetts Trial Court started moving many functions and procedures online. Continuing this transition should make dealing with the court system not only more efficient for most parties, but should also increase access to justice for self-represented litigants (SRLs).

The Massachusetts Trial Court, with the assistance of the Court Management Advisory Board (CMAB), sponsored our work on this project. The primary question is this:

What should the Trial Court focus on in continuing its migration online? What features, functionality, and information should be included, based on the needs of all the different types of court users?

Based on dozens of interviews, observations in courthouses, examination of the judicial websites of other states, recent research reports, as well as the results of surveys and online feedback, we provide a long list of features and functionality that we believe will benefit all external Trial Court users, including litigants, attorneys, witnesses, jurors, as well as anyone who needs to learn about the court system.

In the process of collecting information to answer the primary question, we also heard about other aspects of the Trial Court in addition to its online presence. This led us to develop a second question:

When litigants and attorneys interact with the judicial system in Massachusetts, what is their experience like and how can it be improved?

In answering this second question, we collected information on how the Trial Court could improve by making changes to legal proceedings, forms, courthouses, and other aspects not included under the umbrella area of online capabilities and information. To convey what we have found, we include many direct quotes from attorneys and court personnel, as well as vignettes from litigants. This builds on our previous work of trying to develop a court ethnography.²

² Karis, *Understanding and Improving the User Experience in Massachusetts Courts*, 2020. <https://docs.google.com/document/d/1bPv8T13wSIBmUfkznjpm3teezquDo9MmzVRU3QCHNM/edit?usp=sharing>

Ideally, the Trial Court should have its own website, and we refer here to a new judicial website as an Access to Justice Portal. We realize that there are no current plans to replace Mass.gov, but rather than be constrained by Mass.gov's current limitations, we are following an aspirational approach and are considering what could be implemented in the absence of current constraints.

Although we focused on collecting primary source material during this research, several people we interviewed suggested reports that we found very interesting, useful, and an excellent complement to this report. We list these in the [References](#) section, recommend them highly, and include many of their recommendations and conclusions alongside our own.

Our recommendations are presented in four sections:

- **Online Capabilities** presents ideas for improving and adding to the Trial Court's online features and functionality
- **Online Information** lists types of information that should be available online
- **Best Practices for Designing a New Access to Justice Website** provides guidelines to follow to ensure a user-friendly website
- **Legal Proceedings, Forms, Courthouses, and Services** covers suggestions for improving other aspects of the court's functioning, including:
 - changes in physical courthouses
 - improvements in paper forms
 - changes in legal proceedings and communications
 - the use of Zoom for remote proceedings
 - and other suggestions

Topics We Don't Address

Our focus is on the needs of external users of the Trial Court, so there are several topics that we do not address (or address only minimally) in this report:

- **The experience of internal Trial Court employees**, including the use of Courtyard or other internal systems for court employees.
- **Ongoing work toward a digital case flow** in the Trial Court, which is part of the creation of a completely digital case flow and e-Court system. This is critical and we assume it will help to solve some of the problems we describe in this report.
- **The experience of jurors**

- **The Appellate Courts:** These courts handle far fewer cases, have far fewer SRLs, and operate very differently from the Trial Court.³
- **Usability and user interface issues:** Although usability and user interface issues are outside the scope of this report, they are our area of expertise, and we have worked with the Trial Court on a number of projects focusing on usability problems within the court system, from the difficulty of finding your way within large courthouses, to problems with using digital displays, and the pervasive problems involved with almost incomprehensible court forms. We have also noted serious problems with Mass.gov and MassCourts.org. Over the last several years, we have provided feedback on a variety of usability and user experience issues as part-time volunteers, but the Trial Court really needs a full-time User Experience (UX) Team on staff. We encourage readers to look at the Six Levels of UX Maturity in [Appendix 5](#) and for court employees to take the UX Maturity Quiz. We also provide a few examples of UX problems in Appendix 5 to illustrate the kinds of issues that having a more user-centered organization would help prevent.

“Why So Negative?”

Our goal for this report, as user experience researchers, is to identify areas where the Trial Court can improve. Thus the focus is almost exclusively on the problems we learned about, and on potential solutions. We only indirectly mention areas where the court is already doing a good job, but this should in no way be taken as an overall negative evaluation of the court’s services.

The court is doing many things extremely well. For example, there was a great response to the pandemic in terms of moving quickly to protect both employees and the public, in transitioning many functions online quickly, setting up Zoom, buying laptops and phones for employees to work from home and in the field (especially for probation officers), and so on. One probation officer told us that she and her colleagues being given computers and court cell phones “really has changed the game in how we can do

³ For example: The Appeals Court and the Supreme Judicial Court are able to handle eFilings immediately, and most of the attorneys who practice there are very experienced and know the procedures well. “It’s a very collegial bar,” said one attorney, “you know there’s only so many of us who do this work. We all know the clerks.” When attorneys have questions they can call the clerks on the phone and have their questions answered immediately. There are some less-experienced attorneys on the civil side, but on the criminal side (which is perhaps 50% of the docket), “that’s a pretty defined group of attorneys...they are appellate specialists.” The Appellate Courts also have a different case management system (CMS), and the Appellate Courts will probably have a new CMS several years ahead of the Trial Court. Almost none of the problems attorneys complained about in the different Trial Court departments occur in the Appellate Courts. In addition, close to 100% of attorneys choose to eFile in these courts, even though it is not mandated. See the section in [Appendix 2](#) called “The Trial Court Versus the Appellate Courts” for a description of how differently judges operate in these two different sets of courts.

things.” They now don’t have to be in the office to do their work, which has been “phenomenal.”

One attorney told us that she was very impressed at how quickly the court has moved from a “triage” posture at the start of the pandemic to a “looking forward posture” in finding opportunities for improvements. We also heard many stories illustrating the care and dedication that numerous court staff bring to their work, as well as their desire to see improvements that would help the court better meet its mission of ensuring access to justice for all.

Limitations of Our Research

There are, of course, many limitations to our research and this report. Neither of the authors is a lawyer, and although we have been doing research with the Trial Court for several years, our understanding of legal procedures and the structure of the Trial Court is limited. This is also one of our strengths, however, because as outsiders, and user experience researchers, we try to bring a fresh perspective to viewing the judicial system and the experiences of litigants and attorneys as they interact with the court system.

Another major limitation is that there are seven Trial Court departments, and in many cases they operate differently, and the experiences of litigants and attorneys may differ radically. Even within a court department there may be differences among counties, or between courts with a high volume of cases and those with a smaller volume.

We also focus primarily on attorneys and SRLs, and since SRLs appear primarily in civil cases, we spend more time on civil rather than criminal matters. Although we interviewed attorneys and employees from all seven court departments and the two appellate courts, most of our focus is where SRLs appear: the Probate and Family Courts, Housing Courts, and small claims courts in District and Boston Municipal Courts.

The Judicial Websites of Other States

We created a slide deck with screenshots showing examples from the judicial websites of other states. You can find that slide deck here:

[A Sample of Notable State Court Website Features](#)

We refer below to examples from this slide deck as *Slide Deck*, followed by the page number of the relevant slide. While writing this report, we continued to spend time examining what other states are doing, and we are particularly impressed by California (<https://www.courts.ca.gov/>). We refer to sections of the California site in several places

throughout the paper, and we encourage readers to spend time looking at the organization of the website and all of the information it provides.

How We Did Our Research

We gathered information from a wide variety of sources, as our goal was to generate ideas for online features. Our primary sources of information were from visits to courthouses and interviews, in most cases via Zoom, but in some cases interviews with SRLs were in person. We also collected information from an analysis of judicial websites of other states, recent published research on trial courts, analytics on the use of currently available online services, as well as a variety of miscellaneous information, including surveys conducted by or for the Trial Court, and feedback by users of Mass.gov. In situations where we had questions, we were often able to obtain detailed explanations from court personnel via email.

Formal Interviews

We interviewed 55 people, not including all the informal discussions we had with people during our visits to courthouses (which are discussed below). These semi-structured interviews included attorneys, court employees, and SRLs, and were conducted between January 27 and July 6, 2022, while the informal discussions during court visits continued throughout the year. We created separate interview guides for these three different classes of respondents, and modified them slightly during the course of the study as we learned more and wanted to explore new areas. All participants volunteered their time and none was compensated.

- **Attorneys (20):** We used maximum variation sampling, in which we tried to collect information from a diverse group of attorneys who practiced in all seven court departments as well as the appellate courts. They worked for a variety of legal aid organizations and other nonprofits, the public defender's office, as well as in private practice, and they handled both civil and criminal cases. Several had worked as prosecutors in the past. Most were in their 30s and 40s, although a few were in their 50s, and two were above 60. Eleven were female and nine male. The interviews typically lasted about 45 minutes.
- **Court employees (15):** These represented a wide range of jobs and experience, from assistant clerks to a Clerk Magistrate, attorneys, a business analyst, people from the Executive Office of the Trial Court, and five probation officers. Nine were female and six male, with their ages ranging from the late 20s to late 60s. These interviews also typically lasted about 45 minutes, but ranged from 20 minutes to over an hour.
- **Self-represented litigants (20):** These were SRLs who were receiving assistance from Court Service Centers. They ranged widely on a number of sociodemographic dimensions. We interviewed eight in breakout rooms of the Virtual Court Service Center, and 12 in person at three Court Service Centers (in

the Franklin, Worcester, and Lowell Justice Centers). In addition to these 20, we had short discussions with SRLs in the Gardner District Court and the three large courthouses mentioned above.

There was a fair amount of diversity among the court employees and SRLs we interviewed, but practically all of the attorneys were White. We recorded all interviews conducted over Zoom except one, imported our notes and transcripts into NVivo⁴ (a program for analyzing qualitative data), and coded both the notes and transcripts using a modified grounded theoretical approach. We ended up with over 80 categories, grouped into 40 higher-level categories, and in the process of organizing them discarded several which were redundant or overlapped too much with other categories.

Informal Interviews at Courthouses

In addition, we spent time at the Gardner District Court and four of the larger courthouses (the Franklin, Worcester, and Lowell Justice Centers and the Edward W. Brooke Courthouse), observing activities and physical spaces, plus talking with SRLs, attorneys, court officers, and clerical employees of the clerk's office (these informal talks are not included in the list of interviews above).⁵ We were also allowed to spend time behind the counter at the clerk's office at the Gardner District Court, talking with the clerks and observing interactions with litigants.

At the Brooke Courthouse, we stood at a table with two signs and talked with people as they entered or left the building. This is an effective method to gather a lot of information quickly from litigants, advocates, attorneys, and court personnel (see Figure 1).⁶

⁴ <https://www.qsrinternational.com/nvivo-qualitative-data-analysis-software/home>

⁵ We realize that we are sometimes loose with terminology. Most court departments have a "clerk's" office, but we realize this is called the "register's" office in the Probate and Family Court and the "recorder's" office in the Land Court. Similarly, there is a clerk-magistrate in the District Court, Boston Municipal Court, Housing Court, and Juvenile Court while there is a register of probate in the Probate and Family Court. There is a recorder in the Land Court and a clerk of court in Superior Court. A helpful description of the various positions can be found at:

<https://www.mass.gov/info-details/representing-yourself-in-a-civil-case-introduction-and-print-resources>

⁶ Four of the seven court departments are represented at the Brooke, missing only the Superior, Land, and District Courts. Our understanding is that the District Courts are very similar to the Boston Municipal Courts, which are represented at the Brooke.



Figure 1. Demetrios Karis and Thayse Mendonca (from the Trial Court Office of Diversity, Equity, Inclusion & Experience) in the lobby of the Edward W. Brooke courthouse on June 15, 2022. Note the table with BMC clerks in the background (which we will discuss later in this report).

Improving Access to Justice

Improving Online Capabilities is Only One Part of Ensuring Access to Justice

We think that most people who have some level of comfort using a computer or smartphone will want to be able to complete many types of judicial transactions online. They will not be satisfied with just finding information or forms that they have to print out and deliver. This is becoming ever truer, and underscores the need for the court to continue developing robust online capabilities.

However, online information and capabilities will never be sufficient to ensure equal access to justice under the law. Many SRLs have limited technical ability, do not own computers, and although they may have phones, they often have limited available minutes. In addition, there are many non-native English speakers among court users.

The pandemic just blew open the differences between those who have and those who do not.

...

My clients were not on Zoom, it was not set up in a manner that allowed the majority of my clients to adequately participate via Zoom. And people would show up to the courthouse for their hearing because they didn't have access and then they're turned away at the door [during the pandemic]. And they had no way to participate. I had clients who had, you know, limited cell phone access and they only had a certain number of prepaid minutes. And they'd be sitting in a Zoom waiting room for three plus hours, and that was their minutes for the whole month, and that was it and they go dead and disappear and I couldn't get ahold of them until the next month, where they will put some money back on.

– Attorney⁷

There is evidence that advances in technology and online capabilities may actually make current disparities worse. As a recent report by the Pew Charitable Trusts concluded, “The accelerated adoption of technology disproportionately benefited people and businesses with legal representation – and in some instances, made the civil legal system more difficult to navigate for those without” (*How Courts Embraced Technology*,

⁷ We promised anonymity to those we interviewed and so will not include names or identifying information in this report. We recorded our interviews in Zoom and used the transcription feature. We slightly edited some of the quotations to remove disfluencies.

Met the Pandemic Challenge, and Revolutionized Their Operations, 2021, p. 4).⁸ One example is from debt collection, where national companies took advantage of new online tools to start thousands of lawsuits during the pandemic (p. 4). Another report, from this year, found that “various technological barriers ... inhibit access to justice for many self-represented litigants” (*You’re Still Muted: Access to Justice Barriers in Massachusetts’ Virtual Small Claims Court*, p. 4). There were, of course, some bright spots, such as the fact that clients with school-aged children often ended up with Chromebooks provided by schools, and this resulted in improved online access at home for these people.

Given the challenges facing many SRLs, no matter how much the court improves online information and capabilities it will not help this relatively substantial segment of the population. For this reason, there will be a continuing need for direct one-on-one assistance in the Court Service Centers, as well as by legal aid organizations that provide assistance in person both in courthouses (e.g., the Lawyer for the Day program) and in their offices, as well as remotely over the phone and by video connections such as Zoom.

Process improvements are needed in addition to technology changes. In the words of the Pew report: “Technology, if layered on top of complex court processes, will only reinforce the status quo: complicated, attorney-centered procedures that are difficult for people without lawyers to navigate. Court officials must examine the processes that litigants have to complete during various types of cases to identify opportunities to simplify forms and procedures” (p. 19).

We discuss some of the structural and other problems of the Trial Court in sections below, and they will take time and be difficult to overcome. One relatively easy short-term solution is to improve the available information (both online and on paper) for both SRLs and attorneys, and we discuss this extensively in this report.

Pointing out the challenges for SRLs that were exacerbated by the pandemic is not to minimize the enormous effort and advances made by the Trial Court during the pandemic. In the words of another attorney, “I like that the court has not just viewed the pandemic as creating problems but has viewed the pandemic as presenting a real place for opportunity.” Rather, our point is that while improvements to online capabilities are necessary and will certainly help many people, the court should not lose sight of those who will not be helped by such technology-focused changes.

⁸ See the [References](#) section for a list of all studies cited in this report, along with URLs to download them. For several of the reports cited, no authors are listed and we refer to them by their title. The second and later references to reports use an abbreviated title.

Self-Represented Litigants, Self-Help Tools, and Reducing Disparities in the Court System

Although we are concerned with all court users, our focus is on SRLs and others who enter courts or are involved in legal proceedings without professional guidance (e.g., civilian witnesses, supportive family members). It is this group of people who are most in need of help in navigating the court system. SRLs with disabilities or limited English proficiency have an even more difficult time navigating the court system. It is also clear that the number of SRLs has increased over the years, and now accounts for a large percentage of litigants. When the National Center for State Courts (NCSC) created a large case-level dataset (*The Landscape of Civil Litigation in State Courts*, 2015), they reported:

One of the most striking findings ... was the relatively large proportion of cases (76%) in which at least one party was self-represented, usually the defendant (p. iv).

The picture of civil litigation that emerges from the Landscape dataset confirms the longstanding criticism that the civil justice system takes too long and costs too much. As a result, many litigants with meritorious claims and defenses are effectively denied access to justice in state courts because it is not economically feasible to litigate those cases (p. v).⁹

It is also clear that litigants in civil cases do not receive enough legal help. In fact, “A stunning 86% of the civil legal problems of low-income Americans receive inadequate or no legal help and an estimated 30 million people each year are reported to lack legal representation in the state courts” (McClymont, 2019, p. 5).

The situation in Massachusetts is similar to that in other states. For example, most litigants in both the Probate and Family Court and the Housing Court do not have access to legal representation.¹⁰ In addition, “the surge in SRLs is correspondingly worsening the disparities between wealthy and poor litigants in Massachusetts courthouses. SRLs, on average, are less likely to obtain favorable outcomes for their cases compared to litigants with attorneys” (*Turning on the Lights*, 2019, page 6; we will refer to this as the Appleseed report). The Appleseed report focuses on the development of self-help web-based tools to reduce the disparities between those who

⁹ The NCSC created a case-level dataset of all non-domestic civil cases from 152 courts in 10 counties from 10 states during a one-year period between July 1, 2012 and June 30, 2013. The dataset included over 900,000 cases.

¹⁰ See the Appleseed report *Turning on the Lights*, 2019, which quotes the MA Access to Justice Commission and a variety of published articles.

can afford attorneys and those who can not. We agree that such tools will help, and we include many of them in this report. However, we also discuss numerous potential improvements with respect to courthouses, legal proceedings, forms, and other aspects of the legal system that will make it easier for SRLs to obtain equal access to justice, even apart from improvements to online capabilities. The Appleseed report envisions a system that “would provide ‘one-stop shopping’ for SRLs where they can diagnose their legal issues, learn about their rights and potential outcomes, access resources and attorneys, and submit documents to courts” (p. 15). Ideally, SRLs would also be able “to track their cases, receive actionable alerts, and engage in the mediation and resolution of cases, including enforcing judgment” (p. 16). We wholeheartedly agree, although we don’t think it is necessary that all these capabilities be part of a “centralized hub.” That would certainly work, but isn’t absolutely necessary in our view, provided that all these new tools are integrated well into a judicial website.

Stepping back and taking a broader view of the Trial Court in Massachusetts, many lawyers talked to us about how a radical change in perspective is required. We need to acknowledge first that we were continuously amazed by the dedication, caring, and empathy of the court personnel we interviewed and came into contact with, from clerks at the counter, session clerks in courtrooms, and court officers at the entrance security, to clerk magistrates, judges, and those in the Executive Office of the Trial Court. We also believe that the court is dedicated to meeting its declared goals of improving the experience of all those who use the court system. However, changes in individual behavior will not be enough.

The history of the Trial Court, as an institution designed by lawyers for lawyers, has led to the current situation in which an increase in SRLs has led to a continuing disparity between rich and poor (i.e., those with and without attorneys). Some attorneys we spoke with argue that there needs to be a complete re-engineering of the court system to provide true access to justice. We are user experience researchers, not attorneys, and don’t feel qualified to discuss how the structure of the Trial Court should change. However, in both this and our previous work, we have tried to provide a full understanding of the end-to-end experience of pro se litigants, and feel that this understanding is a prerequisite to determining the types of changes that are needed. Here is what one legal aid attorney who focuses on credit issues, debt, and bankruptcy told us:¹¹

There needs to be a shift from the courts thinking that their job is to process cases to their job is to serve the public, which is not the feeling

¹¹ We realize the great diversity of opinions about the Trial Court and note that this attorney deals primarily with debt and bankruptcy issues, an area in which most agree that SRLs are at a terrible disadvantage.

you get when you walk into a courthouse as a pro se person. Courts are concerned with case metrics, not with helping the people in front of them.

...

The system is designed with the idea that self-represented folks are the exception, but that's not the reality.

...

I don't buy the premise that the court is fundamentally doing a really good job and we just need some tweaks around the edges. I don't think the court does a good job serving people, on a pretty fundamental level. The first step is to get the court to admit that.

...

Court service centers are great, but the idea that that's something extra is wild to me. That should be baked into the basic thing that courts do. That should be what courts do.

Some disparities seem to us to be relatively easy to fix. For example, in small claims court, one study observed that while defendants were often defaulted immediately when they were not in attendance, the corresponding outcome for absent plaintiffs, dismissal of the complaint, was much less likely to be imposed.¹² There are disparate consequences for the defendant and plaintiff, and simply recognizing this fact and applying explicit and fair rules about defaulting and complaint dismissal would be a good start.

However, as McClymont (2019) points out, a “full spectrum of approaches is needed,” and she refers to the Conference of Chief Justices and the Conferences of State Court Administrators, who wrote in a 2015 resolution that they “support the aspirational goal of 100 percent access to effective assistance for essential civil legal needs and urge their members to provide leadership in achieving that goal and to work with their Access to Justice Commission or other such entities to develop a strategic plan with realistic and measurable outcomes.” To achieve 100% access, existing advances must be continued and expanded and new tools developed. We review and make recommendations in many of the areas that this resolution mentions: “...expanded self-help services to litigants, new or modified court rules and processes that facilitate access, discrete task representation by counsel, increased pro bono assistance, effective use of technology, increased availability of legal aid services, enhanced language access services, and triage models to match specific needs to the appropriate level of services.”¹³

¹² *You're Still Muted*, p. 5, but the issue of defaulting litigants is discussed in many places throughout that report.

¹³ CONFERENCE OF CHIEF JUDGES AND CONFERENCE OF STATE COURT ADMINISTRATORS, RESOLUTION 5 REAFFIRMING THE COMMITMENT TO MEANINGFUL ACCESS TO JUSTICE FOR ALL (2015),

Structural Issues in the Court System

Some of the issues we discuss below result from the organizational structure of the Trial Court, and the inability of one person, or one part of the organization, to create rules or procedures that everyone must follow. This, too, is outside of our areas of expertise, but we need to acknowledge the issue. One court employee described the situation to us like this:

One basic problem, which is one that can't be solved easily, is just the fact that the way that our court system is structured is not a top down hierarchy. It may look that way, but you have clerks who, in some cases like Superior Court clerks, are elected, you have registers, I think, who are also elected. All of the judges are appointed by the governor. You have other clerks that may be appointed by the SJC,¹⁴ so I'm saying that only in the sense that people's loyalty really is – I think they want to do the right thing, I don't have any doubt about that, but still their sense of what the right thing may be, and who they should listen to, may be complicated by the fact that they each had their independent authority. So I think there's that basic structural problem that sometimes people may not always respond immediately to what the administrative office of the Trial Court or the administrative office of the District Court, Superior Court, says this is how it should be done.

Basically, there seem to be multiple power centers within the judiciary, and even within a single court responsibilities are divided between the judicial side and the clerk magistrate/register's side, with the first justice appointing some people and the clerk magistrate appointing others. We realize that the court system itself cannot change this situation, as it results from both statutory and constitutional law.

Consider the debt collection system: "...given the number of cases that are scheduled per session in some small claims courts, if all litigants were to appear, the court would not be able to hear each of their cases because the time necessary to conduct the hearings would far exceed the time allocated for the session. Essentially, the entire Massachusetts debt collection system is premised on the understanding that many litigants will fail to appear" (*You're Still Muted*, p. 9). Given this situation, which everyone understands, rather than continuing and accepting that there will be a large number of

<https://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/07252015-Reaffirming-Commitment-MeaningfulAccess-to-Justice-for-All.ashx>.

¹⁴ SJC: Supreme Judicial Court

defaults, the Trial Court should investigate what leads to such high default rates and try to remedy the situation.¹⁵

One attorney we interviewed pointed out to us that in Massachusetts the judges and the clerks who hear small claims are in a parallel relationship, not hierarchical, as the clerks do not report to the judges. Reform efforts thus need to take this into account, and if the focus is primarily on one side rather than both, success is unlikely. This attorney went on to say that small claims court is no longer about things like resolving disputes between neighbors but has become “completely captured by the debt collection industry.” He does not think that “small tweaks” will help much. Note that one way to return small claims to the original concept is to do what Washington state did and limit proceedings to the individuals involved: “Attorneys and paralegals are excluded from appearing or participating with the plaintiff or defendant in a small claims suit unless the judge grants permission.”¹⁶

Consistency and Uniformity are Fundamental

Consistency and uniformity are critical, for a variety of reasons: they make possible the creation of forms and guided interviews and other explanatory materials that can be used across counties and departments, and they improve efficiency in multiple ways for both court employees, attorneys, the Court Service Centers, legal aid organizations, and SRLs.

We heard over and over again about inconsistencies in procedures and forms throughout the Trial Court and the difficulties this creates for attorneys, SRLs, and anyone trying to create explanatory materials. As just one example among many, every county has a different form for Correction of Vital Record, and there are even differences in how to file the form.

In the recent A2J report (*Creating a More Equitable System: Lessons Learned During the COVID-19 Pandemic*), this is a major theme: “An overarching theme throughout many of the Report’s recommendations is the importance of consistency and uniformity to facilitate access to justice for everyone but particularly for self-represented litigants (SRLs), communities of color and those with limited English proficiency....” (p. 4).

We agree strongly with the Report’s recommendations for facilitating communication with court users:

¹⁵ This is the focus of the report, “You’re Still Muted: Access to Justice Barriers in Massachusetts’ Virtual Small Claims Court” (2022).

¹⁶https://www.courts.wa.gov/newsinfo/resources/?fa=newsinfo_jury.display&folderID=brochure_scc&altMenu=sma&fileID=who

Increased adherence to published rules and protocols and ensuring uniformity of forms and filing procedures across each Trial Court department should be an articulated and enforced priority: consistency and uniformity would dramatically improve efficiency of operations throughout the court system, while the lack of consistency prevents development and implementation of most forms of self-help, such as basic “how to” guides and a range of automated technological resources (p. 5).

We realize how the structure, history, and power distribution within the Trial Court will make this difficult, but it should be a priority and goal.

In a recent study (*You’re Still Muted*, 2022), observers took notes during 21 small claims court sessions in Massachusetts. They noted a lack of standardization in the way clerks introduced the sessions, the instructions they gave, the ways in which defaults were issued, and how Lawyer for the Day Programs were described and mentioned during the session. These variations had an impact on the outcome of the proceedings and thus had an effect on the defendants' access to justice. The observers also noted the overall friendliness and demeanor of 18 clerks. In 12 cases (67%), the “clerks were perceived as kind, friendly, or patient. Four clerks were regarded as neutral, fair or respectful, while only two clerks were described with somewhat more negative connotations” (*You’re Still Muted*, p. 13). This is important because it indicated to the authors that the lack of standardization was unintentional and thus avoidable. In this case the lack of standardization often had very negative consequences for the parties.

We agree with these recommendations from the report:

- “Given the significantly high default rate of defendants in remote debt collection small claims hearings, more protective notice(s) should be given to defendants of their pending cases.” (p. 25)
- “All clerk magistrates should be required to introduce themselves and explain their role at the beginning of every court session.” (p. 28)
- “The Trial Court should work with legal aid organizations and non-profits to develop a bench card that standardizes the instructions clerk magistrates provide litigants at the beginning of every session.” (p. 28)

The court vision in the new Strategic Plans is that, “Processes and standards are consistent within each department and appropriately consistent across departments” (Strategic Plan 2023-2025, p. 6). There is now “far more emphasis on cross-organizational alignment” (p. 1), and we hope that this new emphasis will address some of the issues reviewed in this section and throughout this report.

Recommendations: Online Capabilities

Based on what we heard in interviews, observed in courthouses, plus our own experience over the last several years and the research literature, we grouped online features and functionality into the following three groups:

1. Existing Capabilities that Should be Improved and Expanded
2. New Capabilities We Recommend Adding
3. New Capabilities that are Potentially Useful

Existing Capabilities that Should be Improved and Expanded

This section lists existing online features and capabilities of the Trial Court that our research found to be highly beneficial for SRLs and others, and therefore worth expanding and improving upon. Note that purely informational features (such as information about legal procedures, or directions to court locations) that should be available online are covered later in [Recommendations: Online Information](#).

We list here all online functionality and services, even though some, such as the Virtual Court Service Center, are not part of any website but rather stand-alone services (i.e., you join the Virtual Court Service Center by joining a Zoom meeting). In addition, the functionality below exists on multiple websites, although much can be accessed via Mass.gov.

Existing capabilities that should be improved and expanded are:

- eFiling
- Filing by Email
- eReminder
- eSignatures
- ePayment
- eService
- Virtual Court Service Center and Other Remote One-on-One Services
- eDelivery for Attorneys and SRLs
- Guide and File
- For the Record (FTR)
- MassCourts

The Appleseed report provides a list of best practices for providing online help for self-represented litigants. The list includes online triage, LiveHelp services, document assembly programs (what we refer to as Guide and File), accessible online resources, and navigable websites (p. 16). We agree these are all important, and they are included

in this and other categories below. We prefer to refer individually to the components of what the Appleseed report terms “LiveHelp,” which include in-person assistance via what we call Virtual Services, as well as contact with court personnel or attorneys via phone calls and text messaging.

eFiling

Attorneys talked about eFiling more than any other topic, while SRLs basically never mentioned it. We heard that “eFiling is fantastic” but also that it should be expanded to cover all case types, and that in some busy courts attorneys didn’t use eFiling because the court doesn’t docket quickly enough. Although many attorneys were satisfied with eFiling, problems with filing in general are perhaps the most serious and common problems reported by attorneys. We heard many suggestions for improvements, such as that filing online should automatically notify the opposing counsel.

Our recommendation is to expand eFiling as quickly as possible, for both civil and criminal cases. This is certainly the most common recommendation we heard. For example, a criminal defense attorney told us:

I think if you can get eFiling in you would have a million criminal defense attorneys singing your praises for years to come, because we never thought it would happen. So the fact that it's on the civil side and not on the criminal side is a major frustration for a lot of us.

Although eFiling is technically available to SRLs, currently almost all eFilings are by attorneys. Those SRLs who do eFile are almost exclusively in small claims court, probably because there is an online Guide and File available for small claims but not for other case types. We provide data on this in [Appendix 1](#), along with interesting quotes from attorneys about the various problems they experience when eFiling.

Here are some of the main comments and recommendations that we heard about eFiling:

- Expand eFiling: eFiling is wonderful, but it still has many problems, and although eFiling is available for most civil cases, it is not yet available for any criminal cases. A criminal defense attorney told us that, “the biggest frustration that I have with the Trial Court right now is the difficulty in filing things,” because everything must be filed in person or via fax.
- eFiling is often slow because the court doesn’t docket quickly enough. In smaller courts (e.g., many District Courts) eFilings are reviewed quickly and there are no

backlogs, while in courts with high volumes attorneys told us that they can't use eFiling for time-sensitive filings due to the delays.

- When the current eFiling system is replaced or improved, consider requiring eFiling for attorneys, which is mandated in many federal courts using their CM/ECF system (Case Management/Electronic Case Files). Some departments already require eFiling in some types of cases. For example, in the Housing Court, attorneys are required to eFile Summary Process and Small Claims case types.¹⁷
- eFiling is a huge benefit for attorneys. It is less clear how much of a benefit it is for SRLs to eFile, since even a system that is vastly easier for SRLs to use than the current one will take some time to learn. As one attorney pointed out to us, most SRLs will think that this will be the first and last time they'll be in court, so they are not likely to want to take the time to learn how to eFile. Even so, there are undoubtedly some case types (e.g., no-fault divorces or name changes) where the convenience of eFiling would be a great boon to SRLs and the efficiency of the court, so we do recommend that the eFiling interface be made much easier for SRLs to use. SRLs should not have to overcome multiple hurdles in order to learn how to eFile.
- Attorneys and court personnel had many interesting comments and suggestions about eFiling, and we have collected these in [Appendix 1](#).

Ideally, guided interviews (see [Guide and File](#) below) should be linked to the Tyler eFiling system so completed forms created by the guided interviews can be automatically eFiled (rather than being printed out and then turned in). We agree with the recent report on *Creating a More Equitable System* that the Trial Court should adopt "Tyler's EFSP certification process to allow certified third-party EFSPs to transmit documents into the Tyler e-filing system" (p. 10; EFSP is Electronic Filing Service Provider).

We are pleased to see that in one of the new top strategic priorities, Timely and Equitable Delivery of Justice, one goal is, "...to make substantial progress with e-filing and digital case flow (eCourts)" (Strategic Plan 2023-2025, p. 7).

Filing by Email

During the pandemic, many courts started allowing people to file via email. For many attorneys, having to physically go to the court to file something often took a big chunk out of their day, so "...being able to email filings or do it somehow in a web-based

¹⁷ <https://www.mass.gov/guides/efiling-in-the-housing-court#-who-can-efile-with-the-housing-court?>

system is fantastic.” In some courts, we heard that email filing depends on the clerk accepting it,¹⁸ and there are variations across the Trial Court.

Email filing puts an extra burden on clerks, but is certainly worth considering in limited cases. For example, until eFiling is available for all types of cases, we agree with the A2J Report on *Creating a More Equitable System* that “CSCs and remote LFD programs should be permitted to file pleadings via email and a standing order should be issued to ensure consistent implementation of an email filing protocol” (p. 20).¹⁹ In addition, “Emailed pleadings should prompt an auto-response confirming receipt of the documents to facilitate follow up” (p. 20).

eReminder

The eReminder system was introduced in 2021. “This new text messaging system originally was designed to reduce the number of warrants issued for ‘failure to appear’ and reduce unnecessary pretrial detention.”²⁰ Posters about the eReminder system now appear in all courthouses. “Are you interested in receiving notification of your next scheduled court date? By enrolling in our e-Reminder Service the Massachusetts Trial Court can text you the date, time and location of your next scheduled court appearance.”²¹ Defendants get a message four days before and then 12 hours before their court date, and the message includes their docket number, name, court date, and location. Everyone we spoke with thought eReminders was a good idea, although we were surprised by how many people (attorneys, court personnel, and SRLs) didn’t realize it was a current service, despite prominent posters in courthouses. As one attorney told us, “I practice all across the state and I’ve only had one person in one county even mention that to me.” She suggests that a notice about the eReminder system could be included with every single mailing.

There is also good evidence from large scale field studies in New York City that sending text messages to people reduces failure to appear rates. Fishbane, Ouss, and Shah (2020)²² sent text messages to people issued summonses seven, three, and one day before their scheduled court date. They found this resulted in a 21% reduction in failures to appear.

¹⁸ One attorney told us, “If you have a kind clerk and you have their email address, sometimes they will do you a favor, but it’s definitely a favor. It’s not what’s allowed in the court, in terms of filing things via email.”

¹⁹ CSC: Court Service Centers; LFD: Lawyer for the Day

²⁰

<https://www.mass.gov/news/new-text-messaging-reminder-system-for-court-users-is-now-available-across-the-commonwealth>

²¹

https://www.mass.gov/doc/ereminder-court-date-notifications-flyer-english/download?_ga=2.120463816.1940920429.1666622992-1056876494.1661546329

²² Science, Vol 370, Issue 6517, 8 Oct 2020: <https://www.science.org/doi/abs/10.1126/science.abb6591>

eReminder is now functioning in all seven court departments, and defendants can enroll at intake in the probation department or after arraignment in the clerk's office. It is available for all criminal cases and for civil cases in some departments, but not all, and we recommend that it be expanded to cover all types of cases.²³ We also recommend that all departments include an online form for signing up; to our knowledge, only the Housing Court currently has such a form.²⁴ Even more consequential would be to include an option to consent to receiving eReminders on all summonses and notices sent to litigants.

It is also worth considering expanding the eReminder system to include information and reminders about what's next in your legal case. Michigan, for example, sends text reminders about deadlines and forms to submit (see Slide Deck, p. 20).

We realize that litigants need to opt in to receive reminders from the court, but if possible, it would be ideal to be able to opt in once and have this choice remain in effect.²⁵ This would help many people, but there are two potential problems: for some people, addresses and phone numbers may change frequently (even during the course of a case), and some people may also be hesitant to share their phone numbers. Consider these comments from two attorneys:

So you have to opt in. What they do with that is you opt in to receive text messages from probation to have a text message reminder of your court date. Some clients do that and that's been really helpful. But some clients don't feel comfortable giving their phone numbers to probation if they're not on probation.

Sounds amazing....I think that would be amazing, the only problem with that that I could see is that, I think sometimes a lot, a lot of the times the courts don't have accurate contact information for defendants and part of the reason for this is because in our cases in the Small Claims debt collection cases it's the plaintiff who provides the address, phone number to the court for the defendant and the way they get this information is from running like Lexus searches or West law people map searches or some sort of third party, you know, people search and sometimes the information is not quite up to date. That being said, sometimes it is and often it is, and

²³ We recently heard that eReminder has indeed been expanded and covers all case types.

²⁴ <https://www.mass.gov/forms/ereminder-court-date-notification-system>

²⁵ We have just heard that this is how the system now works.

I think you know people could potentially be benefited by having some sort of text message alert.

Another potential problem for people with multiple court cases is actually receiving too many reminders. One court employee who was previously in private practice told us that, on one hand, the eReminder system was “one of the best things we’ve ever done,” although on the other hand there were times when a few clients seemed overwhelmed by all the text messages. In some cases, they were receiving notifications for court appearances that only their attorneys needed to attend. Perhaps there should be an ability to opt in for some cases and opt out for others, rather than receiving eReminders for all cases or none. This requires more thought and discussion, and we realize that there are often difficult design and implementation details for almost all of our recommendations.

Probationers sometimes miss appointments, and one probation officer suggested extending eReminders to include meetings with probation:

For us, people miss their dates ... so if I were to be able to do my MassCourts entry and then actually put in there the next time I see that person and whether it's a home visit or an office visit. So just as someone's being reminded of their court dates, they can be reminded of their appointment date. In a lot of these individuals that we're dealing with, you know they don't really have the best organizational skills. So they could get a text message, like you have an appointment with [probation officer's name] on Friday, July 1 at 10 am and that automatically would be generated for them and It would probably significantly decrease missed appointments.

eSignatures

During the pandemic, the Supreme Judicial Court allowed both attorneys and SRLs to use electronic signatures, and we expect this order to continue (June 10, 2020).²⁶ We heard that eSignatures were “incredibly helpful.” One attorney went so far as to tell us that, “I will literally cry if the court goes back to requiring wet signatures on anything.”

Although allowing eSignatures helps tremendously, its ease of use varies across court users, as with many of the technological innovations reviewed in this report. Those less technically literate and without computers have more problems, and this extends to giving approval for representation. Legal aid attorneys point out, for example, how much

²⁶See

<https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-updated-order-authorizing-use-of-electronic-signatures-by-attorneys-and-self-represented-parties>

easier it is to sit next to someone in a courthouse and get them to sign required papers versus getting them to sign online.

Probationers have to sign a variety of documents, and if there were a way for them to sign online, it would make their life easier.

The report on *Creating a More Equitable System* summarizes well the advantages of eSignatures:

The ability to use e-signatures in place of wet signatures has been enormously helpful and should be continued to the greatest extent possible. E-signatures eliminate the need for time-consuming trips to a law office or courthouse, reducing the costs and easing the burdens of litigation for all. This is especially important for wage-earners, individuals with disabilities, and litigants with young children in their care (p. 21).

ePayment

Massachusetts has an online way to pay court fees and fines, called ePay (<https://www.mass.gov/epay-in-the-courts>). We heard from probation officers and other court employees, however, that there are several obstacles that either make it difficult to use or prevent people from using it altogether:

- ePay is not available in Spanish or other non-English languages.
- It is difficult to use, as it is embedded in MassCourts rather than having its own dedicated interface. Finding one's case can be challenging, since you can't search by name. You also need to make sure that your payment is applied to the right category in the case where you have multiple fees or fines. See the lengthy step-by-step instructions²⁷ on Mass.gov, which hint at the many pitfalls the user may encounter. In addition, see the scenario in [Appendix 5](#) pointing out usability problems with ePay.
- It is not mobile-friendly, making it difficult to use on mobile phones.
- It has a fee in addition to the payment amount. (The fee goes to PayPal, the underlying service provider.) This is a barrier for those with limited income, and is also surprising since online payment helps reduce crowding in courthouses and requires less work from the court staff. We would think the court would want to encourage it rather than charging extra for it.

Our recommendation is to make ePay much easier to use:

- Make it available in Spanish and other languages.
- Create a dedicated payment portal, or at least a specialized path that does not require the user to interact directly with the MassCourts interface (Alabama

²⁷ <https://www.mass.gov/doc/instructions-for-using-epay/download>

provides an example of a dedicated court payment portal; see the Slide Deck, p. 74)

- Make it easy to find the right case.
- Make it easy for the payor to target payment to the right category when there are multiple fees/fines outstanding.
- Make sure it is easy to use on mobile devices.
- Waive the service fee.

The court should also look into making other payment avenues available. For example, in Arizona, people can make court payments at CVS, 7-11, and other stores. See the discussion below in [Paying at Retail Stores](#).

eService

During the pandemic, the Supreme Judicial Court allowed service via email on attorneys of record and SRLs who agreed to it,²⁸ and it seems reasonable to continue this practice. The conditions of the SJC ruling make sense to us, but we refer readers to the A2J report on *Creating a More Equitable System*, where there is a discussion about the difficulty of SRLs giving truly informed consent.

Virtual Court Service Center and Other Remote One-on-One Services

The court currently offers one-on-one services remotely through the Virtual Court Service Center (<https://www.mass.gov/info-details/virtual-court-service-center>) and virtual registries from several court departments.

Virtual Court Service Center (VCSC)

The VCSC provides remote assistance on Monday through Friday from 9 am to 12 pm for anyone with a computer or phone who can connect to it.²⁹ (There are also in-person Court Service Centers in seven courthouses twice a week. These are discussed later in the [Court Service Centers](#) section.) The Virtual Court Service Center is extraordinarily valuable for SRLs: It helps people fill out forms, explains Court procedures, and in general makes SRLs feel less overwhelmed, all without requiring them to make a trip to a courthouse.

The importance and benefits of the Virtual Court Service Center were highlighted by several attorneys we spoke with:

²⁸

<https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-order-concerning-email-service-in-cases-under-rule-5b-of-mass-rules-of-civil-procedure>

²⁹ The Virtual Court Service Center was created when the pandemic struck and is one of the positive outcomes of the pandemic, as it appears that it will become permanent.

I also wonder if we could expand our court service center services and lawyer for the day services ... All the counties should have some form of a program like that. It's going to take the burden off the court clerks in terms of processing the information coming in. For things that aren't filed correctly, for example. But if you expand those services where there are options in person and virtually, the person virtually could share their screen and show them, step by step, how to use the eFiling system and then one or two tutorials of that and somebody able to do it on their own right, so I think that's a way of eliminating that concern about the self-populating form providing too much advice, because you have somebody there who's telling me what it is that you want to do okay, here's the form that you need right now.

...

For most of my clients, they have really benefited, for a myriad of different reasons, from having remote access to all of the things, whether it's court hearings or court service centers, or whatever.

– Attorney in Family Court

The idea that [Court Service Centers are] something extra is wild to me. That should be baked into the basic thing that courts do. That should be what courts do. Community courts, at any rate.

– Attorney in Small Claims Court

Here is an example of the experience of a woman who received help from the Virtual Court Service Center about a guardianship case. She said, during an interview with a Bentley graduate student,³⁰ “This is a fantastic procedure to be able to Zoom. It's so convenient.” Although she was an educated professional, this woman commented that the court was intimidating and scary, and that “Court terminology is frustrating. What's a motion?” She and her ex-partner had been spending considerable time just trying to figure out the legal process involved in guardianship and said there was “a huge learning curve.” Not understanding the system, they had both had multiple interactions with the court system and had made mistakes, in part because they had not received the information they thought they should have been provided from a school and medical professionals. This was her third call to the Virtual Court Service Center, and she was pleased that her current questions were all answered.

³⁰ Bentley graduate student project, “Free Legal Services & the Pro Se Litigant User Experience.” Link will be added here soon.

Virtual Registries

In addition to the VCSC, there is virtual assistance in several of the court departments. Like the VCSC, these started during the pandemic when physical courthouses were closed to the public. The first was the Virtual Registry of the Probate and Family Court, which then spread to several of the other court departments. The Housing Court calls their service a Virtual Front Counter, while the West Roxbury Division of the Boston Municipal Court Department calls their service the Virtual Clerk's Office.³¹ We studied the first Virtual Registry in 2020.³²

We heard from some court employees that attorneys sometimes take advantage and “hog” the virtual registries, in one case spending two hours on it. One court employee told us, “A lot of our work and a lot of our followup work is with attorneys rushing or doing things wrong or wanting things right away.” He then went on to say that the technology is fine, however:

I think attorneys take advantage of it. They have a paralegal sit here and just get status, pull dates, let's say, hey, I did an emergency motion and eFile, can you pull it and it's like, listen, if it was really an emergency, you should be in line, right now, because the flow is different, right. If it comes over the counter we view it and we docket it and scan it. We give it right to the judicial case manager. They make an order, they go right to a judge.

Two attorneys told us that although the virtual registry was very helpful when you get through, you sometimes needed to wait a long time. Their recommendation was to include some sort of count down in the Zoom waiting room so you would know where you were in the queue.

From our previous research, from anecdotal evidence, and from what we heard in our interviews, the various virtual registries have been enormously successful in helping both SRLs and attorneys. The A2J Commission's recent report on *Creating a More Equitable System* also discusses how these virtual methods of providing information and assistance could be integrated better with in-person Court Service Centers (CSCs) and free legal aid services. They point out both the advantages and the potential pitfalls. They write,

³¹ We use “virtual registry” to refer to all of these similar online systems.

³² [Understanding the Experience of using the Virtual Registry](https://docs.google.com/document/d/1rw8SelnNTtvQBshT1ohKI314_UXn_AuPtSN0uErSE3Y/edit?usp=sharing) (PDF) or https://docs.google.com/document/d/1rw8SelnNTtvQBshT1ohKI314_UXn_AuPtSN0uErSE3Y/edit?usp=sharing

To meet the needs of litigants during the pandemic, the Trial Court departments developed virtual registries and clerk's offices. At their best, these virtual services offer real-time filing, payment, and issuance of summons, as well as answers to questions, all without travel to a courthouse. The cost saving to the court user is significant when measured in units of missed work, childcare, or travel expense. At their best, virtual registry and clerks' offices are also integrated with CSCs and virtual Lawyer for the Day ("LFD") programs, legal assistance programs including volunteer lawyers at some courthouses, and facilitate coordination of services. At their worst, virtual services are "open," but leave users waiting endlessly and without explanation. A person waiting in a Zoom room has no way of looking around to see if others are being helped or if there is a different queue to enter. At their worst, virtual services do not alert SRLs to other available resources and do not facilitate transfer to other virtual services (p. 8).

There are technical limitations with respect to the customizability of Zoom waiting room home pages and the management of breakout rooms, but the court should continue to look for solutions to streamline and improve the caller's experience. We have recommended modifications to waiting room screens in the past, suggesting more comprehensive instructions (in multiple languages) and providing wait times. There are currently restrictive word limits for some of these pages, and no easy ways to automatically provide wait times, but our expectation is that technical solutions will appear in the near future and the court should immediately implement them.³³

Given the tremendous benefits of remote one-on-one assistance, our recommendations are:

- Increase the staffing of the Court Service Centers. Both the seven physical court service centers and the Virtual Court Service Center should be available every day, all day long. In addition, the VCSC should be open at least one night during the week.
- Set up or continue virtual registries in all court departments (except perhaps the Land Court, where from what we've heard it is not needed).
- Publicize virtual services more widely, including better naming and explanations (e.g., how would anyone know to look for something called a registry?).

³³ Zoom has a feature that displays the estimated wait time in the Waiting Room using their Route To widget functionality, but it is unclear to us whether the court could implement this feature. There are also many minor user-interface issues. For example, when you try to log on to the Virtual Registry when it is closed, the first thing you see, in large font, is "Please wait for the host to start this meeting." Although the hours are presented below in smaller font, many users are likely to focus on the first large message and assume they will soon be admitted to the session. Being able to display a different message based on the date and time of day is a feature we expect will be implemented by Zoom in the near future.

- Integrate the virtual registries more closely with the VCSC and Lawyer for the Day programs.
- After an online meeting on a virtual registry, offer to send the caller an email with legal information and information about free and reduced cost legal assistance, following the current practice of the VCSC. (In fact, some of the information that the VCSC sends is also worth sending to callers by the virtual registries.)
- Give priority to SRLs over attorneys in the Virtual Registry.
- Work with Zoom to figure out how to provide callers with wait times.
- Consider adding online chat and text messaging as additional channels besides Zoom video conferences and phone calls, in order to reach as many people as possible. The Law Libraries currently answer questions via online chat, text messaging, and phone calls (in addition to Zoom), but do not currently have the staff to handle an influx of additional SRLs.

eDelivery for Attorneys and SRLs

In 2021, the Trial Court introduced eDelivery,³⁴ enabling some Court notifications and documents to be sent to attorneys through email rather than through paper mail. This is “terrific” one attorney told us. It makes sense to expand this program to cover all court correspondence and documents. Ideally, there should be an electronic copy in the MassCourts system of everything that the court sends out.

eDelivery should also be mandatory for attorneys; all communication from court to attorney should be eDelivery. Some rules/laws may need to be changed to make this possible. The federal government figured it out so we should be able to – all eFile and and eDelivery.

– Court Employee

The Mass.gov page that provides details about eDelivery mentions that, as of 10/2/2022, “eDelivery is only for attorneys. We hope to enable parties to also receive eDelivered documents and notices in a future phase.”³⁵ This also makes sense, and we note that the Appeals Court already allows SRLs to sign up for electronic-only notifications.³⁶ There should be an online way for parties to view all notifications and documents sent to them.

³⁴ <https://www.mass.gov/edelivery-in-the-trial-court>

³⁵ <https://www.mass.gov/info-details/learn-about-edelivery-in-the-trial-court>

³⁶

<https://www.mass.gov/service-details/overview-of-mac-rule-310-electronic-notification-of-court-orders-notices-and-decisions-in-lieu-of-paper-notice>

Guide and File

Most attorneys considered Guide and File (also called guided interviews and document assembly programs, from the software used to generate them) to be the most important feature for SRLs, even though most of these attorneys had little or no experience with them.³⁷

These systems provide information and ask questions to collect all the information required to fill out a court form. They then fill out the required court form with the information a litigant provided, let you review it, and then either file it automatically or let you print it out and file it conventionally. Guide and file forms are indeed wonderful (if designed well), but they are most useful in only a small number of complex and frequently used forms, or for forms that need to be filed in an emergency, such as 209A restraining orders.

One attorney told us:

When I heard that the court is actually going to make a Guide and File financial statement, that made my day and possibly my week.

The financial statement is not only used frequently by multiple court departments, but is also very difficult for most SRLs to fill out, which is why it made this attorney's day. Another attorney confirmed this:

A good place to start for a guided interview ... would be financial statements, because they really are a basic document and they are completely incomprehensible for most people without an attorney.

And a court clerk, in a discussion about the difficulty of filling out forms, told us:

They [the court] have to modernize. Modernize tech. Smart tech, hopefully, software to make it foolproof, like TurboTax. People don't know how to do taxes, but they just do TurboTax and they know how to do taxes.

We thought this was a good analogy. Turbo Tax for IRS forms, Guide and File for court forms. Other attorneys, however, take a more moderate view:

I would deprioritize that only because I feel like that can consume a lot of resources and money while providing a minor amount of benefit [over existing online tree structures, e.g., for deciding between 1A and 1B divorce].

³⁷ The MADE system for housing eviction defense is perhaps the oldest Guide and File, and many attorneys are familiar with it; see <https://www.gbls.org/MADE>.

This attorney suggested the court consider adding Guide and File for places where there is currently no direction provided, and leave the ones that already have clear direction for the future.

There are 648 different English forms used in Massachusetts, and it is our view that it is more important to improve existing forms than to create new Guide and File versions of forms that are problematic in the first place, although in a few situations they can be extraordinarily useful. There should definitely be guided interviews for housing eviction, restraining orders, financial statements, and several others, but there is also a great need for redesigned forms that are written in plain language, with an improved visual design, and include detailed instructions. The more complex the form, however, the more the need for Guide and File.

To be useful for SRLs, Guide and File programs must be usable on mobile phones. This means that there is only limited room per screen for information or to collect responses. The Legal Innovation and Technology (LIT) Lab at Suffolk University follows a “mobile first” design approach, and their Guide and File for a restraining order takes over 100 screens to complete. The time to complete the process is another issue to consider. If a person knows what he or she is doing, it will be much quicker to fill out a form directly rather than going through the Guide and File process. For this reason, even when a Guide and File exists, there also needs to be a way to fill out the form directly (e.g., via HTML5).

Everything is connected: forms will be easier to fill out when they are designed better, but also when there is more information included about the legal procedures involved. Consider what the Appeals Court did to help people with appeals. Because so many SRLs have problems with the Tyler eFiling system, the Appeals Court built a page on their website explaining summary process eviction appeals, and worked with the LIT Lab in Suffolk University to build Guide and File type forms that can be completed by phone or online and submitted via email.³⁸ Clerks at the Appeals Court then enter the information into their CMS. Given their reduced caseload compared to the Trial Court, they are able to do this manual process, although they have encouraged the LIT Lab to become a Tyler certified provider, which would allow them to integrate fully with the

³⁸ <https://suffolklitlab.org/> & <https://courtformsonline.org/>. Quinten Steenhuis, while at Greater Boston Legal Services, created the Massachusetts Defense for Eviction (MADE) guided interview that many readers of this report will be familiar with. When Quinten moved to the LIT Lab, he was part of a team that created several additional forms for the Trial Court and the Appeals Court.

Tyler system. Encouraging other organizations to become certified providers could accelerate the process of providing guided interviews.³⁹

We recommend that the Trial Court continue to develop Guide and File forms,⁴⁰ but also to monitor their effectiveness, both via usability studies as well as by an analysis of the number of forms submitted from these programs, whether they were accepted, and the types and number of mistakes. It is also worth collecting feedback on their usefulness and usability from attorneys, legal aid organizations, and of course directly from SRLs.

For the Record (FTR)

The For the Record service⁴¹ allows attorneys and the public to request audio recordings and transcripts of court proceedings provided by the vendor, For the Record (<https://fortherecord.com/>). One clerk we spoke with noted that it often takes a lot of time and effort to fulfill FTR requests because the recordings often include sidebar conversations about other cases or private remarks, both of which need to be edited out. When someone makes a request for a recording, "We have to listen to the whole thing. ... We need more manpower. Why can't they just get [the recording] from [the vendor]? Why do we have to get it? Why doesn't the Trial Court have a team to handle this?" For these reasons, this clerk had two recommendations: First, better training of session clerks on the use of the FTR system. And second, a centralized service to provide FTR recordings so it doesn't burden local staff. We don't have enough experience to evaluate these recommendations, and we've also heard that this clerk may be mistaken in that we've heard from others that there is a centralized service, and in most cases the FTR recordings are paused when interruptions occur.

Another court employee said they would love to see the courtrooms better equipped with monitors and other equipment so that recording of trials could be handled remotely.

I'd like to see a way of remotely using For The Record. Even during the pandemic, we had to have people here on site come in and sit in the courtroom during a trial, while everybody else was on Zoom, and so we're just not there yet. We'll get there, but you know our infrastructure is pretty weak.

³⁹ We realize that the Trial Court has had issues in the past with some Guide and File forms because it was felt that they were not neutral and provided advice. Although we encourage more Tyler external certified providers, we also acknowledge that the court will have to work closely with these providers.

⁴⁰ There are very few currently live; these include a Guide and File for tax lien answers and one for small claims.

⁴¹ <https://www.mass.gov/order-the-audio-of-a-court-proceeding>

The Appeals Court has a searchable ADA compliant Youtube channel.⁴² We're not sure how much demand there is for similar functionality for the Trial Court, but it's something that may be worth considering.

MassCourts

Although we did not examine MassCourts.org in depth, we did hear about it from many people in our interviews. It is relied upon by attorneys, some of whom use it “dozens of times a day,” and by probation officers, who use it to document every single interaction they have with probationers, as well as by people in other roles. MassCourts includes a lot of functionality and underpins many vital court processes, and we heard from many people about their desire for new functionality and better features and design, along with their frustration with problems they've encountered. From a user's perspective, a large part of MassCourts is just a front end to the case management system. For this reason, we include information and recommendations here for both MassCourts and the case management system.

One attorney said that although MassCourts was “increasingly getting better,”

*The federal system, Pacer, is so reliable and so good, that's like a benchmark that I feel [MassCourts is] still not up to.*⁴³

Our recommendations:

- **Ensure that all case documents are consistently and promptly accessible.**

One of the biggest complaints we heard about MassCourts is that often not all documents for a case are available. This appears to happen for several reasons: courts do not all consistently enter the same information; court staff can take a long time entering the information; some types of documents are never or rarely included, despite their usefulness (e.g., scheduling notices, which have the Zoom info for the proceeding, per an attorney in Housing Court); and sometimes documents are not described accurately.

One attorney we spoke with contrasted MassCourts to the Federal bankruptcy court, which has been digital since the late 1990s and which he says completely reproduces the paper file. “In fact, it is the file. They don't go by this fiction that the court does with MassCourts that ‘MassCourts isn't actually the docket’.” His view, and we agree, is that every piece of paper that the court sends out should be uploaded to MassCourts. Currently this isn't the case, and we heard that the descriptions that are entered instead

⁴² <https://www.youtube.com/c/MassachusettsAppealsCourtOralArguments?app=desktop>

⁴³ See <https://pacer.uscourts.gov/>. We have heard that the Pacer system was custom-designed for the federal courts and they refuse to license it.

are not always descriptive enough. This attorney also mentioned that he would like to automatically receive an email whenever something is uploaded, with a link that lets him view the document. Here are some other comments we heard:

[Interviewer: What would help you?] If the courts would utilize MassCourts more. Some are great. Some don't use it at all. It's just so much easier if I can access everything online that has been filed.

– Attorney

I use [the attorney portal, MassCourts] all the time to look at documents. I think what the clerk's office are supposed to do is upload, is make available for viewing, every document that is filed in the case to the Attorney portal, except for stuff that needs to be redacted, for whatever reason, which is understandable. I still find some clerk's offices just don't do it, the images aren't available and that's always really annoying because sometimes look, I had a situation, the other day, where an image that was a motion, it should have been viewable was not and I called the clerk's office asking for them to make [it] viewable and they said, for some reason, no, and you have to send us a public records request in writing with a money order for five cents a page - like what?! Like that doesn't make any sense so yeah I think the clerk's office needs to have some sort of training on this as a lot of them still don't.

– Attorney

The ability to view the documents, ability to view the actual complaint and police report at the inception of the case would be really important, because sometimes you're struggling to track those down. If they were scanned in, that would be very helpful.

I did find that there's still ... significant user error in the data entry that's being done at the level of the clerk's office. Oftentimes it was very inaccurate and when compared to the paper docket. And that was a problem that was a big problem, and then it was the delays and entry. Sometimes will be several days before it would become available after something had happened. It wasn't timely.

– Attorney

It would be great if I could look at docket sheets on the juvenile side ... if there was some way to access just my case. I understand the

confidentiality of our proceedings [which he believes is the main reason for lack of online access in the juvenile system], but it does become beneficial. ... If we had some type of filing system, like they do in the Federal courts, some online filing system, it would definitely be more beneficial.

– Attorney

We should be scanning and OCRing [i.e., converting from image to text] all the documents in a person's case. The images are archived for 30 days and that's a problem, because of course court cases last a lot longer.

– Court Employee

The information of the Attorney that's assigned is usually wrong. They usually have the first attorney that gets assigned, even if there's been multiple attorneys since then. And having an attorney email or phone number right on MassCourts is incredibly helpful when it's there and it's harder when it's not there.

– Attorney

We assume that many of these problems will disappear when the Trial Court completes its transition to a completely digital case flow and MassCourts (or its replacement) is the official docket.⁴⁴

- **Create an easy-to-use interface into MassCourts for litigants (including SRLs).**

This would let litigants see all the information about their case (such as all filings and notices), and also let them make common requests, such as for an interpreter or for disability accommodations. Although a full-fledged self-service portal for SRLs would be the ultimate goal, as described later in the [Self-Service Portal](#) section, even just having a redesigned MassCourts home page that focuses on the needs of SRLs would be a huge improvement.

[MassCourts] – that's where people want to be. They want to see the documents related to their case. They want to be able to look at them and I think they want to be able to print them and bring them with them.

⁴⁴ MassCourts is currently the official docket for the Superior Court, but this is not the case for the other six Trial Court Departments.

We need a better interface to MassCourts that pro se litigants can use to get information about their cases. A place to request an interpreter, links to get more information about the court you're involved with, and so on.

The user interface could pull data from MassCourts, but have its own capabilities as well to interface and communicate with different administrative offices of the court (interpreter services, a2j, etc.)

[Currently] MassCourts is not a two-way street, as it just shows what's there, and you can't request things [e.g., an interpreter].

– Court Employee

- **Make it more robust for attorneys**

One attorney requested an automatic system to alert attorneys when their clients have warrants that are put in the system. We heard from both attorneys and litigants about the problems that arise when an arrest warrant is issued but neither the attorney nor the defendant knows about it. Arrest warrants can be issued in several types of situations, and sometimes defendants are not notified in order to preserve public safety, for example after felony or violent misdemeanor offenses. However, we're referring here to situations in which a defendant fails to respond to a summons. In these cases, issuing a warrant is part of the public record and defense attorneys should be notified so they can alert their clients to appear in court and vacate the warrant.

- **Provide better connections and synchronization between MassCourts and other software and systems**, including to outside agencies, to make court staff more efficient.

Better data integration with other systems would help in many ways. As just one example, there is currently poor integration between MassCourts and the Registry of Motor Vehicles (RMV), which sometimes leads to problems for litigants. We heard from clerks that a person may not be able to renew their driving license because the RMV thinks they still have an outstanding arrest warrant even though it has been recalled. That person must then go to the District Court, get proof of warrant recall, and return to the RMV.

The court system could also help stakeholders by sharing data, for example, by directly porting information from MassCourts to the public defenders' internal system (Zelly for CPCS).⁴⁵ Otherwise CPCS has to do unnecessary data entry into their own system.

⁴⁵ From Mass.gov: "The **Committee for Public Counsel Services** (CPCS) is responsible for providing criminal and certain non-criminal legal services to indigent persons entitled by law to representation by legal counsel."

There are potentially dozens of other systems that MassCourts could be communicating with. We realize that this is often technically difficult and raises important security issues, but the possibility of better integration should be investigated. As one senior court person told us, “I think what would be nice is just to have some synchronization of the various software that we have and nothing seems to be connected really to anything else, and nothing seems to be connected to some of the outside agencies that we deal with,” such as the Land Court and Registry of Deeds.

- **Improve the search functionality.**

Searching for cases in MassCourts requires knowing the particular court involved and entering both first and last names of a party (AND apparently starting with a capital letter, according to the MassCourts instructions⁴⁶). We heard from attorneys and court employees that these requirements for searching hamper their efficiency and do not meet the expectations for modern search behavior.

Yeah, that's true [you need to put in the court to search], and if I was able to do that [search all courts at once] that would be great. Sometimes people call and they don't even necessarily know what court they're in. Or a loved one calls and says, my brother's in jail. He has a case and we got your name from a friend. We know what jail he is in but we don't know what court he's in.

– Attorney

So you have to know what court it's out of first, so it'd be actually great if I could look up just my client's name and see all of the cases that they have pending and various or all of the cases that they've had in various courts, but right now, you have to know the court that it's out of, and then you can look it up via docket number or client name, from there.

– Attorney

If they don't know what District Court their case is in, how do I help them? Right, then I have to ask a bunch of questions about where the arrest took place or where the citation was issued, what police department, right, what town were you in when you were pulled over, so it's so granular the search ability is so granular. It's certainly the antithesis of a Google search, which we've all become accustomed to. I think it's very hostile to the end user ... I found it to be a hostile environment.

46

<https://www.mass.gov/doc/instructions-for-massachusetts-trial-court-electronic-case-access-masscourts/download>

– Court Employee

And then searching can be very glitchy and one thing I will say is trying to find some of my clients on MassCourts is next to impossible because there's no one way to enter multiple last names so, for example, if I am trying to find a client ... I can just give you a recent example, and this is not even a compound name but it's her last name was de Olivera. So trying to find her in MassCourts was impossible and I finally gave up. Her ex had a single last name so it's easier to just always look it up by her ex's name, because there was no one way to look up like a non-American last name or that you know if somebody had a last name is, I don't know, Mantos Ruiz. Let's say sometimes it'll be in there as Mantos, sometimes it'll be in there as Ruiz, sometimes it'll be Mantos-Ruiz with the hyphen, like you just can never ever predict how it's going to be in MassCourts. It's next to impossible to find somebody in there.

– Attorney

The case search functionality for the Appellate Courts also needs improvement (<https://www.ma-appellatecourts.org/>), we heard, but we will not focus on that here.

The Slide Deck has examples of state judicial websites that are much less restrictive in their search requirements (see Slide Deck pp. 55, 56, 64, 65).

- **Make sure that all the text of entered documents can be searched.**

We heard that some documents are scanned in as images and never converted to a text format (via OCR, Optical Character Recognition), which means they cannot be searched and that people with vision disabilities who rely on screen readers cannot read the documents.

- **Consider automatic notification of the attorney of record in certain situations.**

In addition to automatically notifying attorneys when new documents are filed on a case (as mentioned above in the [eFiling](#) section), there are other situations that warrant automatic notification. One we heard about was bail revocation:

Let's say I have a client on a case in Dorchester court, they are out on personal recognizance, they were given a bail warning that says, you know if you're arrested while this case is pending your bail can be revoked and you can be held for up to 90 days without bail. And then, four weeks later, they get arrested up in like Lawrence Court and Lawrence District

Court says, we're going to revoke your bail on the Dorchester case and they revoked Dorchester. And that means they're now held for 90 days, but I wasn't a part of it, because it happened up at Lawrence. It's not getting to me, you know that information is again being conveyed to the clerk. To the Attorney of record on the case where the revocation occurred, and I do think MassCourts should have the ability to trigger a notification to the Attorney of record on the case where the revocation occurs. Say, hey, your guy's in jail now and they're in jail for 90 days you're going to need ... to go up there and visit them. The hope is that the lawyer from Lawrence calls you or the client calls you but it doesn't happen, and then the clerk's office doesn't call you either.

– Attorney

- **Audit the major use cases of frequent users (attorneys, court staff, probation officers, etc.) to uncover usability problems and ways to improve efficiency.**

MassCourts has come to be used in ways far beyond what it was designed for. It is relied on by people for tasks quite different from the docketing system at its heart. As a consequence, it provides a suboptimal experience for those users. We recommend identifying heavy users of the system, both external and internal, and conducting a usability audit of the major tasks those users perform. This will uncover areas where MassCourts can be improved to better support these users.

Probation officers are an example of a group that makes heavy use of MassCourts, even though, in the words of one probation officer, it's "a system that was built for docketing; it's not a system that's built for probation supervision." A huge part of a probation officer's job is "documentation, documentation, documentation": "Everything has to be documented. If it's not documented it never happened," and they do that documentation in MassCourts:

[MassCourts:] That's our database. Everyone that we supervise has their own screen essentially, and every interaction we have with them, with collateral contacts, with their attorneys, with the ADA's office, Averahealth, so when they go and do drug testing, all that goes into there and there's different codes we use. So there's a Probation Office Visit, a Probation Home Visit, there's Agency Progress Report, there's drug testing, there's alcohol testing. Each one goes under its own little category. So we type the code in and then we make a note on that.

– Probation Officer

We heard numerous examples of how MassCourts could be improved to better support the daily work of probation officers. Some of those examples are:

- All the probation officers we spoke with use their own individual idiosyncratic systems of Excel and Google spreadsheets to keep track of the probationers assigned to them and when they next need to be contacted. It would make more sense to have this managed uniformly through MassCourts. We heard that other states (e.g., Connecticut) have long had much more sophisticated probation case management systems that color-code the status of each probationer and even send email and text reminders about important activities.
- When entering assessment results, the probation officer has to go into each question and click on the response, in effect going through the assessment question-by-question as if he or she were the probationer. A more efficient way to enter the responses from the assessment would be to just type in the numbers corresponding to each response (e.g., 0, 1, 2, 1, 0, 2) instead of having to go into each question one-by-one and select the response.
- Some changes to MassCourts appear to have decreased efficiency, according to probation officers:
 - For a victim notification letter, probation officers used to be able to use the last letter and change the date before saving and printing the letter. That is no longer possible, so every time a probation officer needs to send a victim's letter they have to generate the letter anew and write all the information again. We heard something similar about violation of probation letters. However, we also heard that this might actually be a design decision meant to reduce mistakes by including incorrect information from a previous letter.
 - Changes to the codes for different types of reportable activities mean that probation officers have to relearn and memorize them again, which can slow them down and lead to errors.
- We heard that sometimes the codes don't cover the exact type of interaction the probation officer is documenting.
- There can be unnecessary extra work. When documenting a court hearing, for example, the probation officer has to add a separate entry if

adjudication occurred, and another separate entry if the Department of Children & Families was involved. It would be more streamlined to be able to do a single entry and then indicate what topics applied to it.

- Some PDF forms generated by MassCourts or found on Courtyard that probation officers are supposed to use don't have editable text fields, rendering them unusable. We heard of probation officers using personal Adobe accounts to edit forms that they couldn't otherwise enter info into. In the words of one probation officer, "there are these forms that we're supposed to be using, but they're not usable ... it's almost like they need one person to be in charge of all the probation forms."

Examples like this suggest that a deep-dive into how well MassCourts works for probation officers would identify many areas where the system could be improved to boost the efficiency of a major part of a probation officer's job and also help reduce errors in documentation.⁴⁷

We recommend conducting the same type of investigation into the experience of other groups of users who make frequent use of MassCourts. Many attorneys, for example, use MassCourts multiple times a day.

New Capabilities We Recommend Adding

We recommend that the court consider adding the following capabilities:

- Online Dispute Resolution & Online Mediation
- Real-time Schedule Information for Proceedings
- Moving Courthouse Proceedings Online
- Requests for Disability Accommodations
- Electronic Notarization (e-Notarization)
- Self-Service Portal
- Translated Forms

Online Dispute Resolution & Online Mediation

In-person dispute resolution currently occurs in some court departments, and from what we have heard and read, it is very effective and an efficient use of court resources. We focus in this section, however, on Online Dispute Resolution (ODR) and use the definition provided in the *Report of the Online Dispute Resolution Committee* (July 2021):

⁴⁷ A milestone in the Strategic Plan 2023-2025 is to, "Implement a person-based, state-of-the-art, probation case management system." Unfortunately, it is listed as 2025. In preparation for this new system, we recommend a detailed analysis of the needs of probation officers and of their current use of MassCourts.

[ODR is] an online process in which the parties, by themselves or with the assistance of a third party neutral, resolve their dispute to the parties' mutual satisfaction....Key features include that it is court-annexed, meaning it is an integral part of the court system; that it is asynchronous, meaning communications do not have to happen at the same time; and that it is technology-based, meaning an internet platform replaces in-person mediations or hearings (p. 1 & 2).

We agree with the Commission's conclusion that ODR, when implemented correctly, "...should provide equitable access to justice for all racial and socio-economic groups including SRLs" (p. 2). We strongly recommend that the Trial Court follow the Commission's recommendation to set up pilot programs.

Real-time Schedule Information for Proceedings

We recommend providing a way to view continuously updated real-time information about when one's session or hearing will actually start, as there are often delays and parties can be stuck waiting for hours, whether the proceedings are in-person or online. We realize how difficult this would be to implement, given case volumes and the impossibility in many cases of predicting whether parties will show up, whether there will be delays, and so on. Nevertheless, there should be some way to provide a more accurate window of potential times for each case.

This feature would help address the problems we heard concerning litigants and attorneys having to wait for their case to be called and having no idea how long the wait would be. One attorney mentioned that people who were actually in the courthouse have even been defaulted in eviction cases because they were in the bathroom when their case was finally called. This is an issue both for in-person and for virtual (Zoom) proceedings. It is also an access to justice issue: People who can afford only a limited number of minutes or data on their phone plan end up wasting them waiting for their case to be called in virtual proceedings, or people with limited income take time off from paid work only to wait for hours for their hearing. As one attorney put it:

I had clients who had limited cell phone access and they only had a certain number of prepaid minutes. And they'd be sitting in a Zoom waiting room for three plus hours, and that was their minutes for the whole month... They're not calling your cases promptly. It's still a cattle call ... You have 70 cases on for the day, why do we give them all 9 am? Nobody's going to get called at 9 am. It's not going to happen, and especially not all 70. But the expectation is you know you've been charged

with a crime, you should be patient, you know you brought yourself here, so you are going to suffer through it, but it's not practical for them, or the attorneys.

We suspect the extent of this problem varies from court to court, and we did hear that at least some courts have moved to more staggered, precise scheduling, which should help cut the amount of time people spend waiting. However, for any court sessions where multiple cases are given the same start time, the issue remains. Having a way for parties to see when their case will actually be called would be a major improvement.

Moving Courthouse Proceedings Online

This is perhaps the area we know least about and have the fewest details, in part because we don't have a complete understanding of legal procedures and how attorneys interact with session clerks and others in the courthouse. Nevertheless, we heard from multiple attorneys that "the more you can do online, the better." It seemed to us that most of the complaints and recommendations were related primarily to administrative matters that could be handled much more efficiently online. One attorney would like the ability to request a continuance online, while another reported a staff attorney who had to go to a ten-minute hearing in person, rather than handling it remotely. When one attorney was asked what she would like to do online that is currently handled in a courthouse, she replied:

I would like to be able to have the ability, if there's a continuance that's in agreement with the Commonwealth I'd like to be able to request that continuance online. Because right now anytime you're trying to continue a case and sometimes it's for relatively minor reasons, like let's say you pick a further status day that your client has to be at but they have a conflict that day so either you are asking the Court to waive their presence that day or move the date and there's no disagreement from the Commonwealth, what you have to do is, you have to physically go into court, fill out a paper form asking for the case to be advanced in front of a judge by the clerk's office, have the probation file be advanced, have the DEA file be advanced, wait for sometimes hours, to get heard by the judge for the judge to say, well, this is in agreement right and then do it. So it's a lot of time wasted. When everyone's in agreement that this is an easy change for a case.

Referring to the details of scheduling and case management, another attorney told us:

Now there is, in some counties there's almost no way to get anybody's attention to these little things that could be handled in an administrative fashion or via Zoom, or more efficiently, generally speaking, within the court system before the court date, so if it's not two months ahead of time that you're reaching ... it's more related to those mechanics.

In another type of legal proceeding, Kentucky allows you to apply for expungement and carry out a background check online (<https://kcoj.kycourts.net/PublicMenu/Register.aspx> and see Slide Deck, page 70 and 77).

Requests for Disability Accommodations

We heard that there should be better communication about how people with disabilities can request needed accommodations. On Mass.gov, there is a page for each courthouse. There is a link in the left navigation for Accessibility, and the section on the page has this information: "Please contact the ADA (Americans with Disabilities Act) coordinator below for more information about accessibility at this court location," followed by a name with contact information. It seems unlikely, though, that many people needing assistance actually navigate to this page when they already have the courthouse address on communications they've received.

An attorney in the Housing Court told us that there's no real process for people with disabilities to request special accommodations, or if there is, tenants in eviction cases are not aware of how to go about it. And an attorney practicing family law described some of the challenges that parties with disabilities face in the court, as well as noting the benefits from remote access:

I think [the court] find[s] it very challenging to figure out what the accommodations are for folks with mental health issues. If they have an auditory processing disorder and they're distracted by noises and a large courtroom. If they have anxiety issues and are stressed out by being in a courtroom with 300 other people sitting in the gallery, listening to their discussion about their mental health issues. You know things like that are challenging. Every court is supposed to have an ADA coordinator, someone whose job it is to work on accommodation issues. That person has like six other responsibilities in addition. So they're not really an expert in disabilities.

Providing for remote access for folks with disabilities, like just as a general statement and obviously it's different for different individuals, but as a

general statement that's been a huge benefit to folks with disabilities, whether physical or otherwise.

To address these challenges, we recommend that the court:

- Develop an online method for parties to request accommodation for disabilities
- Include information about how to access this method on all notices that the court sends to parties

For additional information about accommodating non-English speakers, see the section below on [Interpreters](#).

Electronic Notarization (e-Notarization)

In line with moving as many processes online as possible, and consistent with allowing electronic signatures (as discussed above in [eSignatures](#)), we recommend that the court allow the submission of electronically notarized documents for all documents that require notarization.

This would reduce the burden of having to travel to an in-person notary, as well as the cost of mailing paper documents.

The Pew report on *How Courts Embraced Technology* (p. 7, fig. 3) found that more than 40 states now allow some form of electronic notarization or some alternative to traditional in-person notarization. “As of 2019 ... 34 states had authorized e-notarization for official documents, such as written testimony and statements,” and that number grew during the pandemic (Pew, pp. 5 and 6). Also during the pandemic, “several states reviewed notarization policies, which in many instances led to the elimination of traditional verification requirements, such as in-person document review by a certified notary public” (Pew, p. 14). “Ohio, for example, waived notarization requirements during the public health emergency, and South Carolina now allows court users to submit affidavits, which previously had to be notarized, with simple written certification from the filer that the affidavits’ statements are true” (Pew, p. 10).

Recommendations:

- Allow electronic notarization for all documents requiring notarization.
- Investigate whether all documents that currently require notarization really do need to be notarized or if that requirement can be relaxed.

Self-Service Portal

A personal self-service portal would be amazing, and should be on any future plan for online enhancements. Given the resources required to create one, however, we do not

recommend it as a near-term priority. A self-service portal would provide customized information for an individual given his or her particular legal situation and the current place in the process. As described in the Appleseed report, *Turning on the Lights*, (page 31):

Self-service portals present a dashboard or home screen to inform court users about their cases and provide them with options to complete or review court processes online. In order to provide a complete orientation for court users, effective self-service portals give users case status, updates, and next steps, as well as options for future actions. For example, a user should be able to check their upcoming court dates and see what action items he or she can complete prior to the next step in the case. To access this information, users can either create profiles which they can return to or log in using secure information provided by the court.

A user should also be able to sign up for email or text notifications, should be told when forms need to be filled out or information provided, and the portal should provide not only links to relevant information, but also suggestions on what information to review and when to review it. Graphics should also be provided summarizing the complete process and include typical time ranges for each step in the process. Creating such a customized self-service portal is technically feasible, but will be exceedingly difficult and time consuming. In the future, if a decision is made to proceed, we suggest starting with one type of case, such as divorce or guardianship.⁴⁸

The first step toward a self-service portal is just to make it easier to look online for information about your case. Being able to log in to a system and get answers to simple questions such as, “When is my next court date?”, “Can I set up a reminder so I don’t forget?”, “What forms do I need?”, and “What do I need to do next?” would be very helpful. As one attorney said about these capabilities, “That would be absolutely amazing.”

There will be, of course, many issues to work through, including issues of security and privacy. An attorney who practices in the Juvenile Court commented about providing access to all this court information:

I think that's a great idea, I'm all for transparency. I think, in the court in the case of criminal matters you're going to find a lot of people concerned, even on the adult matters of non lawyers. Having too much access to

⁴⁸ Guardianship and divorce are among the most common types of cases in which litigants represent themselves.

court filings... you can always go to the courthouse and ask to see certain things, but there you know there's going to be orders about what's redacted and what's not allowable.

Translated Forms

Although some court forms have been translated into other languages to help non-English speakers understand them, there appear to be significant gaps in coverage. As one example, the form for an uncontested no-fault divorce⁴⁹ appears to be available only in Spanish and Portuguese. Although that covers a majority of non-English-speaking users, it still leaves a large number of others without help.⁵⁰

A different issue with translated forms is that on Mass.gov the page that mentions a form does not always list all its translations. For example, the page about filing for child custody⁵¹ does not mention that the Affidavit of Care and Custody (OCAJ-1 TRC IV) is available in other languages, as shown on the Translated Court Forms & Information page (<https://www.mass.gov/topics/translated-court-forms-information>).

Recommendations:

- Identify the most commonly used forms and have them translated into more languages.
- Conduct an audit to make sure that links to translations appear on every Mass.gov page where the form is mentioned.
- Consider adding an option for people to request the translation of a form. New Mexico is planning to add such a feature to its website (see Slide Deck, page 34). It seems like a good way to build up a library of translated forms that is responsive to users' needs.
- Institute a process to see that any court orders that result from a hearing where an interpreter was requested are translated.

New Capabilities that are Potentially Useful

In this section, we describe various capabilities implemented by other states or mentioned by some of the people we interviewed. In almost all cases, more research is required, and the usefulness will depend very much on how well the feature is implemented. For example, these days it is fairly easy to implement a chatbot or virtual assistant using off-the-shelf software and end up actually frustrating rather than helping

⁴⁹

<https://www.mass.gov/info-details/probate-and-family-court-joint-petition-for-divorce-pursuant-to-gl-c208-s-1a-cjd-101a>

⁵⁰ We realize that there is a Language Access Plan and a committee working on these issues, although we are unfamiliar with its work.

⁵¹ <https://www.mass.gov/guides/filing-for-child-custody-or-parenting-time-in-massachusetts>

people. To ensure success, a feature like this needs to be implemented carefully and customized for the court system – and then tested and improved in an iterative cycle. Other systems, such as the ability to pay court fees at retail stores, have been implemented by other states (e.g., Arizona’s Pay by Cash), and before proceeding in Massachusetts there should be an analysis of the costs and benefits, as well as contact with the states where it has been implemented to understand the benefits to court users. We will cover the following nine capabilities:

- Chatbots & Virtual Assistants
- Live Streaming & YouTube Channels
- Online Triage
- Scheduling Tools
- Transportation Subsidies
- Appointment Booking
- Pay at Retail Stores
- Calculators
- Quick Exit

Chatbots & Virtual Assistants

Chatbot virtual assistants can be used for what the Appleseed report calls “online triage,” in which a chatbot or some other system asks a user questions in order to direct them to the most relevant information, or directs them to some type of in-person assistance, either virtually or in person. The chatbot virtual assistants used on the New Mexico and Arizona judicial websites are traditional and quite primitive (Slide Deck, pages 24 and 32), and although we did not evaluate them, we are concerned about their usability and utility. In fact, if not designed well, chatbots may not be helpful and can in fact slow down the process of finding relevant information. The design and testing of any such system is critical, a site visitor should not be forced to use them, and they should result in improvements in finding relevant information or assistance quickly (and this can be evaluated via usability testing before deployment).

We were recently encouraged to learn that Mass.gov is working with NeuroSoph (<https://neurosoph.com/>) to develop sophisticated conversational AI chatbots for Mass.gov.⁵² Chatbots are already available in a few sections of the site, including the Registry of Motor Vehicles⁵³ and the COVID-19 Updates and Information page.⁵⁴

⁵² From the NeuroSoph website: “Conversational AI chatbots, conversational AI assistants or AI chatbots are built upon layers of complex systems that enable continuous self-improvement – becoming more intelligent and mature as they learn with conversation data and supervised machine learning. In addition, using natural language processing (NLP), AI chatbots emulate human conversations by analyzing and understanding sentiment and context in different languages.”

⁵³ <https://www.mass.gov/orgs/massachusetts-registry-of-motor-vehicles>

⁵⁴ <https://www.mass.gov/covid-19-updates-and-information>

Chatbots will be rolled out in the judicial sections of Mass.gov in 2023, starting with jury duty pages, which have the greatest traffic.

We are very impressed by what we have learned so far about the extensive data collection and testing going into the development of these chatbots, and look forward to evaluating them in 2023. Our initial impression is that they will be a definite improvement. In addition, there is no question that chatbots will improve dramatically in the near future.⁵⁵

Live Streaming & YouTube Channels

Live streaming followed by video on demand of court proceedings is advancing in many states (see the Slide Deck pages 60-62, which have screenshots from Florida and Texas; Michigan also has extensive live streaming), and is currently available (or will be shortly) in the two appellate courts in Massachusetts. Both the Appeals Court and the SJC have YouTube channels, which they started before the pandemic. The Appeals Court has a system with voice activated cameras for the three judges and advocates as well as overhead cameras. Ideally, there should be closed captions that are searchable. Whether the Trial Court should start making videos available for court proceedings is a question for the court to decide. Whether or not video is available, it's important that the listed public access lines work as described, which does not seem to be the case currently, at least in District Courts.⁵⁶

Online Triage

"Generally, triage refers to connecting users to the proper resources or the specialized in-person assistance they require for their case type....users generally answer a series of questions or select their case type before being routed to informational materials or being connected to LiveHelp services such as phone lines or chat services" (Turning on the Lights, p. 17). Online triage is often called self-help navigation, and there are many ways to provide it.

Maryland has a form finder that asks a series of questions and then provides information and suggests appropriate forms.⁵⁷ Other states ask a series of questions, including your address and income, and then suggest where you can get free legal

⁵⁵ Consider ChatGPT, <https://openai.com/blog/chatgpt/>, described in the NYTimes as, "...quite simply, the best artificial intelligence chatbot ever released to the general public." See the section in Appendix 5 on "[What the Chatbot Says](#)."

⁵⁶ Over the course of a month, from mid-September to mid-October, four Bentley graduate students attempted to call Direct Access Lines for four District Courts on seven separate occasions and were unable to connect and listen to proceedings. It seems that these lines are only active when there is a remote hearing via Zoom, although it appears on Mass.gov that they are always available.

⁵⁷ <https://www.courts.state.md.us/courtforms/finder>

assistance and whether you might be eligible for various state and government programs.

In our opinion, California has an especially effective system. The home page of the California self-help web page (<https://selfhelp.courts.ca.gov/>) helps users navigate by first asking for the type of action the user would like to complete. These six options are presented:

1. “Get help with papers I was served
2. Start a court case
3. Work on my court case
4. Get information about a legal topic
5. Look up a court case or citation
6. Get help from the court”

Within each action box is a drop-down menu of topics or a place to enter information like a case number. For example, choosing Civil Harassment Restraining Order in the section for working on an existing case leads to options for different steps in the case. In some of the cases, you are asked a number of questions and then presented with the appropriate form or information. In most cases, once you reach the end state you are presented with a section called, Before you Start, followed by a numbered set of steps with detailed instructions. For screenshots from several states, see the Slide Deck, pages 12-19.

Recommendation:

- Study what California has done in this area and try to replicate it for Massachusetts

Scheduling Tools

Judging from our interviews with attorneys, a fair bit of time is spent in managing the scheduling and rescheduling of the various hearings for a case, as the availability of parties and court personnel changes. This can involve repeated calls and emails between attorneys and clerks. It would be more efficient for both the attorneys and the court if some of this could be handled automatically online. For example, there could be a way for attorneys to view the court’s schedule to determine availability when a reschedule is needed, and for the attorneys to request the new date and have it granted automatically if certain conditions were met, such as both parties agreeing to the new date and there being no court-mandated deadline that was being passed.

Transportation Subsidies

Getting to and from the courthouse can be considered an access to justice issue. As a probation officer we talked to put it, “Middlesex County is a very big county, and we have a lot of people that don’t have access to transportation.” An attorney told us:

I have some clients, their best bet is the bus and if their \$390 a month can stretch to them still paying for the bus at the end of the month.

And a court employee said:

People risk their lives walking here due to construction, they have to walk over an overpass. We’re almost two miles from the nearest bus or train stop.

To ease the burden on low-income litigants (those who qualify for indigency) of paying for transportation for in-person court appearances, the court could pay the costs of public transportation for these people.⁵⁸ Reimbursement is not recommended, because people would have to come up with the money in the first place, so the recommendation we heard was to investigate offering vouchers that could be used on public transportation. One way to accomplish this would be to allow low-income parties with matters before the court to request (online or at a kiosk in courthouses) an MBTA Charlie card that is pre-filled with an amount that would cover a round-trip journey from their home to the courthouse where their next appearance is scheduled. Other provisions would need to be made for litigants who might need to take commuter rail or car services, such as Uber or Lyft, when public transportation is not available. We heard one report of a Court Service Center manager who organized a shuttle for those who had difficulty reaching the courthouse.

Similar considerations presumably apply to low-income citizens who are called to jury duty, so the court could consider a similar program for them.

Appointment Booking

The court could offer an online method for people to make an appointment to speak in-person with a clerk or other court staff. This would make people’s visits to the courthouse more efficient, as they would not waste time waiting in line. Alaska is an example of a state that currently offers online booking of appointments (see Slide Deck, p. 31), although they are available in only one courthouse in Fairbanks, and only for services that cannot be done online or via phone.

⁵⁸ Several years ago, at the Dorchester District Court, the first author talked to a man living in a homeless shelter. He had no money to pay for public transportation, and the walk from the shelter to the court took so long that he had to leave extremely early and missed breakfast.

Paying at Retail Stores

To make it easier for people to pay court fees and fines, and to reduce staff time spent handling payments, the court could follow the example of Arizona, which has a PayNearMe program that lets people pay court fees and fines at popular, widespread retail stores like CVS, 7-Eleven, and Family Dollar (see Slide Deck, pp. 72-73; there is a \$2.99 fee).

Calculators

There may be opportunities for the court to offer online calculators for things such as how much one might be ordered to pay in child support, which would give parties an idea of what to expect. Arkansas provides an example (see Slide Deck, p. 75). Another example we came across is the Exemptions Calculator at the Greater Boston Legal Services website on their Consumer Resources page.⁵⁹ This calculator lets people figure out how much they might have to pay a debt collector who successfully sues them.

Quick Exit

Some websites offer a button or another method to quickly leave the site and go to a different site (e.g., to a Google search page). This is implemented to help protect people researching their legal options when they are living with an abusive partner or family member. If they are interrupted during their research, they can quickly leave the site so it's not obvious what they were doing (see Slide Deck, p. 23.). We do not know how useful this feature really is, but it is something the Massachusetts Trial Court could consider implementing.

⁵⁹ <https://www.gbls.org/self-help/consumer>

Recommendations: Online Information

This section details all the various types of information that should be available online, broken down into these categories:

- Information for Pro Se Litigants
- Information for Attorneys
- Information about Courthouses
- Directories and Trial Court Libraries

While some of this information is already available online, much of it is not or is difficult to find. We hope that having a list like this will be helpful for designers working on a new access to justice website.

Information for Pro Se Litigants

Information that SRLs in particular need to know falls into three categories, corresponding to the questions an SRL is likely to have:

- How can I get help?
- How does my legal procedure work?
- What do I do in the courtroom?

Other types of court users, such as represented litigants, visitors, and family members will also benefit from much of this information.

How Can I Get Help?

Most SRLs encountering the Massachusetts court system for the first time do not know about all the free and reduced-rate legal assistance that is available, and so providing this information is critical.

- Mass.gov and courthouses should both provide pointers to providers of free and reduced-rate legal services, including the court's own Court Service Centers (in-person and virtual) and Lawyer for the Day programs. Information about what free legal services will be available in each courthouse, including the day, time, and location within the courthouse, should be available. We should note that good information already does exist on Mass.gov,⁶⁰ although this information is not salient if you search first for the legal procedure you're interested in.

⁶⁰ <https://www.mass.gov/legal-assistance>

- In addition to the Massachusetts Legal Resource Finder⁶¹ and other sites that Mass.gov already links to, we came across Massachusetts Free Legal Answers,⁶² a site that allows users to ask legal questions and get answers for free from *pro bono* attorneys.
- Arizona provides an example of a state court partnering with its bar association to create a website to help people find representation (Slide Deck, p. 30).
- The Access to Justice court department recently updated the court's list of attorneys who provide Limited Assistance Representation.⁶³ The court should continue to maintain these lists and should make sure they are linked to from all relevant pages on Mass.gov. For example, they are not currently mentioned on the "Finding legal help" page.⁶⁴ Unfortunately, this is a page maintained by the Attorney General and not the Trial Court, making it more difficult to update, and providing another example of the advantages of the Trial Court having its own website.
- This information should also be available to litigants while attending virtual proceedings, virtual registries, and other virtual services. The A2J report on *Creating a More Equitable System* makes two excellent recommendations in this area:
 - "All staff operating virtual court services should be regularly trained on, and reminded of, their vital role in providing information about available resources, including LFD [Lawyer for the Day] programs and CSCs [Court Service Centers]" (p. 11).
 - "A specially designed Zoom background for all court employees providing a simple statement such as 'Ask me about free resources,' repeated in several languages, would invite SRLs to ask for help" (p. 12).
- The availability of self-help resources on Mass.gov and other sites like [MassLegalHelp.org](https://masslegalhelp.org) should also be publicized widely, including on notices that the court sends.
- Email addresses should be published for each court department and courthouse so people can ask questions via email; these should be for the court and not an

⁶¹ <https://masslrf.org>

⁶² <https://mass.freelegalanswers.org>

⁶³ <https://www.mass.gov/info-details/limited-assistance-representation-information-for-the-public>

⁶⁴ <https://www.mass.gov/service-details/finding-legal-help>

individual so they are monitored at all times independent of who is working on a particular day.

How Does My Legal Procedure Work?

One of the best ways the Trial Court can help SRLs is to improve the available information on legal procedures, which we discuss in this section, and on courtroom proceedings, which we cover in the next section.

Most SRLs have very little, if any, understanding of all the steps involved in whatever legal procedure they are part of, whether the case has been brought against them or they are the initiator. In addition, the use of unfamiliar legal terminology can make it even harder to understand.

[How do tenants understand the eviction process?] They don't. They often don't understand that the first court event is a mediation, not a court appearance (the court calls it a "Housing Specialist Status Conference"), so they don't really understand why they're there. They think the mediator is the judge. The end result is that the tenant agrees to things they really shouldn't agree to.

– Attorney in Housing Court

To help SRLs understand what's involved in their legal procedure, explanatory information about legal procedures should be presented in multiple ways using multiple formats. Compared to other initiatives, such as moving to an all digital case flow and new case management system, this is relatively easy. "Easy" in the sense that the knowledge exists and there are no technical challenges, although we recognize, as one judge explained to us, that:

Legal proceedings are complicated and multi-faceted. Any description of a legal proceeding provided in simple language risks leaving something out or simplifying something to the extent that some litigants may be misled into waiving rights or taking steps that will have unintended consequences. That's why parties do better with lawyers.

We certainly agree that legal proceedings are complicated and that it would be much easier with a lawyer, but this is just not an option for many people, and it is possible to provide much more comprehensive information than is currently the case. Consider a handout we picked up at a Court Service Center that is used for training volunteers, and which we do not think is available on Mass.gov. It is titled, "General Case Flow" and has a few bullet points for each of the following stages in a case: Complaint/Petition, Summons/Citation, Service, Answer and Counterclaim, Pretrial/Settlement Conference,

Trial/Final Judgment. It also answers questions such as, “What if I need court orders before the Pretrial?” We have neither legal training or court experience, and found this general case flow amazingly helpful.

Creating more detailed information about legal proceedings will take significant time, but it only needs to be done once, and updating will typically be infrequent.

Information should be presented in multiple ways:

- On regular Mass.gov pages, which is already done for some procedures, but not in as complete a form as necessary
- In a sequence of steps on a timeline
- In flowcharts (see the Slide Deck, pp. 25-26) or process guides (Slide Deck, p. 27)
- As part of the instructions associated with court forms
- In pamphlets and handouts

Consider the pamphlet created as part of an experiment by the A2JLab, the Court Service Center, the Volunteer Lawyers Project, and the Graphic Advocacy Project.⁶⁵ It is titled “The Next Steps in Your Guardianship Case.” It is over 25 pages long and is a step-by-step guide solely focused on service of process. The instructions start after an individual has already filed for guardianship. This is a good example of the complexity of many civil legal proceedings, and guardianship is also an example of the many steps in the process, and the length of time it can take (several months to over a year). All of this information should be available online, and there should also be paper versions available in Court Service Centers, clerks’ offices, and legal aid organizations. Other states have created large posters for some types of proceedings, such as divorce, and this is also a good idea.

Unfortunately, the experiment on guardianship is another example of problems that arise from lack of uniformity. It would take additional work to put this information online, because the guardianship process varies from county to county throughout the state. Because there is an expectation that processes will eventually be unified, no one is willing to spend all the extra effort to customize instructions for each county.

There is a wealth of information useful to SRLs that is put out by various legal aid organizations, such as [MassLegalHelp.org](https://masslegalhelp.org) and the Massachusetts Legal Resource Finder (<https://masslrf.org>). The court should look into ways to leverage that content, perhaps by linking to pages that have been reviewed by the court or by using the material as the basis for developing or expanding its own SRL-focused content.

⁶⁵ <https://a2jlab.org/new-guardianship-study-has-launched/>

Video tutorials and how-to guides can be an effective way to communicate information, especially for people with low functional literacy if the video has a voice-over instead of just showing text. For example, the Trial Court has videos about small claims that explain the process in an easy-to-understand way in different languages.⁶⁶ Attorneys we spoke with thought that expanding the video content on Mass.gov would in general be a good idea, but some cautioned that the time and resources needed to create high-quality videos could probably be spent better elsewhere. Making forms easier to fill out or providing robust [Guide and File](#) programs, for example, would undoubtedly benefit more SRLs than creating videos to explain the same unchanged forms and processes.

The unfamiliarity of legal terminology to most SRLs is best dealt with by including plain-language explanations whenever such terminology can't be avoided, but it makes sense to also have a glossary of legal terms on Mass.gov. The Law Library has already created such a glossary,⁶⁷ but we see two issues with it: First, it does not appear to be linked to from other pages about legal procedures, making it unlikely that SRLs will know about it.⁶⁸ Second, it is comprehensive, and thus very long, with the result that most of the terms are not ones that SRLs are likely to encounter. We suggest adding a list of the two dozen or so most common unfamiliar terms to the home page of the glossary.

One way to organize information and make it approachable for SRLs would be to use Frequently Asked Questions (FAQs), organized by topic and searchable. Iowa is an example of a state that uses this approach (see the Slide Deck, p. 36).

What Do I Do in the Courtroom?

When you go into a restaurant, or doctor's office, or store, you typically know what to do, how to behave, and what the employees who work there can do for you, thanks to your long-term familiarity with these institutions. The situation is very different for people who walk into a courthouse for the first time, which is made clear by what multiple attorneys told us:

The legal system is kind of like a game that most people haven't learned how to play and don't know the rules of, and so, even if you are an English speaker, it might be difficult to understand some of the language use and some of the concepts in a court proceeding.

– Attorney in Probate & Family Court

⁶⁶ <https://www.mass.gov/lists/small-claims-videos>

⁶⁷ <https://www.mass.gov/handbook/glossary-of-court-terms>

⁶⁸ Even though it is linked to from 14 other pages, this is not sufficient.

Another attorney, when describing the challenges that litigants face, mentioned not only confusion about the system and unfamiliarity with the process, but even about the basics:

Where to stand, how to present yourself, when my name is called do I raise my hand, do I stay here?

...

In civil sessions people get frustrated because they show up at court for what turns out to be a 2-minute case management conference to set the date for a future hearing. "What the hell did I come in here for?" they may say. Very frustrating for SRLs when they're expecting their day in court.

– Attorney in District Court

Mass.gov does provide good information,⁶⁹ but it is often difficult to find. Including references to this type of information on communications from the court would help SRLs learn about it.

In addition, we recommend that videos also be created, and these should include shots from inside courtrooms to help litigants visualize the situation they will be encountering. Of course, as some attorneys pointed out to us, there are a lot of diversity, equity, and inclusion concerns to be kept in mind when creating videos about how to behave in court. One attorney, after reviewing an earlier version of this report, wrote to us with a positive story about the use of videos in the courtroom.

Many years ago, a retired Probate and Family Court judge...routinely had a video playing at the start of each morning session that would present an overview of the court process in a family law matter featuring him, a probation officer, and an attorney. It educated the litigants as well as set the tone for his courtroom. Having such videos available on the Trial Court's website would be very helpful and informative.

In addition to including such videos on Mass.gov, they could also play on a loop outside courtrooms or in various common areas within courthouses.

Another area where it would be useful for SRLs to have good how-to information is around how to present evidence. SRLs may not know, for example, that evidence needs to be shared with the other side in the case.

⁶⁹ For example, see <https://www.mass.gov/info-details/representing-yourself-in-a-civil-case-v-getting-ready-for-your-day-in-court>. Note that there is a PDF listed under Additional Resources that provides no additional information and just repeats all the information on this web page.

Information for Specific Groups of People

The court should also consider creating content for specific groups of people. For example, children are often affected by legal matters touching their families. Having explanatory content geared specifically to children could help them understand their situation better. Seniors, veterans, and students are some other groups for which states have created specific information and web pages. See the Slide Deck, pp. 79-83 for examples.

Information for Attorneys

Finding Out About Court Proceedings

The main information-related concern we heard from attorneys was the challenges they face in understanding changes to court operating procedures and how legal proceedings differ from one courthouse (or even courtroom) to the next. Attorneys rely on word of mouth from colleagues, standing orders, information on Mass.gov, listservs and emails from courts and professional organizations, and bench-bar meetings, among other sources. Most felt it was difficult to know exactly what was going on in any particular court room at a given time, with a frequent concern being that information was not updated or communicated in a timely manner.

[How do you get information about the court, news?]

I'm laughing because I don't think that things are very well communicated. You hear new things all the time from any number of places ... During the pandemic, courts (Probate and Family Courts anyway) were supposed to put up their operating procedures court by court ... Some courts updated more often than others ... The major way that information gets given to attorneys is through bench-bar meetings, but some counties have many more frequent bench-bar meetings. And in Suffolk I've been asking around and nobody can remember the last time there was a bench-bar meeting. There hasn't been one in the past year, which is already too long.

– Family Law Attorney

[How did you get information about court procedures or changes?]

The standing orders when they came down that's what we were always looking for. When it came to individual courthouses practices, it was very varied how that information was disseminated, because ... the SJC comes down with their standing order and it's usually on a Friday and then come Monday or Tuesday you're going to get the Superior Court to District Court in the BMC standing orders come down and then by the end of that week each of those individual courthouses decide how [it's] going to apply it so you know, central division of the BMC might make a different

determination from Brighton or Dorchester and how that information gets disseminated to you because it's not a standing order is just sort of an email that comes out. Dorchester has court meetings and [a representative from the attorney's organization was there and] would email the bar advocates and the CCS lawyers and say hey we had a court operations committee meeting this morning. And here's how we've decided we're handling the new standing order so if you weren't on [their] contact list you didn't get it and there wasn't anything printed or accessible online, so it was very piecemeal how it was done.

– Legal Aid Attorney

[How do you get information about court procedures?]

Most counties get that information by bench-bar meetings, which, I have to say, I benefit from them, but I have a problem with it, because just by definition, pro se people are not in a bench-bar meeting so how would anybody who's not sitting in that meeting know what needs to be done in order to file something, or they mark something up for hearing. It's a very exclusive and I say that as a member of the private club, but it's not right.

– Legal Aid Attorney

I've had some counties where I'm like, Look, I read the protocol and the person stops me on the phone [to say] Nobody's following that anymore, like Okay, then why is it up on the website (Mass.gov)?

– Family Law Attorney

Our recommendations here are straightforward:

- Information about individual court operating procedures should be published online
- Likewise, the results from each bench-bar meeting should be published online
- Greater effort should be made to ensure that the published information is kept up to date
- It should be easy for attorneys to sign up online for any newsletters, listservs, or email distribution lists maintained by court departments

Of course, there would be much less need for this type of information if procedures were more uniform across the Trial Court (as discussed above in [Consistency and Uniformity are Fundamental](#)). As one attorney put it, while agreeing that it would be good to have timely information online:

I'll tell you what would be even better – if there was one consistent and uniform way of doing business, and I know that the Court is just absolutely

refusing to do that, but it doesn't make any sense. The system we have now just does not make any sense, and I do say this as somebody who practices in multiple counties because, especially now, it's impossible to know like Okay, this is the practice here, but what do I do there?

– Legal Aid Attorney

Court Schedules

Greater visibility into the upcoming schedules for individual judges and courts was another type of information that attorneys mentioned as being particularly valuable.

In one county, it's helpful – we get the list of all the cases on Fridays, we get the list for the next week of all the cases that are on ... And then you can sort of scan it and go through and sort of see what's on, and make sure you never miss something, so that has surprisingly been super helpful ... It's the list of cases that are going to be called each day that the clerks always had on their desk ... and now we're all getting that online the week ahead of time.

...

I didn't even know that was even a possibility and now my God that's great so in terms of scheduling tools [it] might even be nice to be able to see what the judges of the courts schedule is even if it's not the specific cases.

– Attorney in Juvenile Court

Information about Courthouses

Information about courthouses is critical, and Mass.gov already provides substantial information. The question is what additional information should be provided. We've divided information about courthouses into two categories: information already provided on Mass.gov and information that could be provided but is not currently available.

Information Currently Available on Mass.gov

See, for example, the information available for the Attleboro District Court (<https://www.mass.gov/locations/attleboro-district-court>).

- Physical address, directions/maps, parking availability, public transportation
- Contact information: phone and general email address
 - Multiple phone numbers are given, which is great
 - Each court now has an email address (since COVID). Keep them! Using email is an efficient way to get answers to simple questions that required a court visit or fax in the past.

- Only one email address is provided and there is no information about which office it is for and what type of requests/communications are appropriate
- Hours
- Accessibility for people with disabilities
- Juror information
- Information about court proceedings (daily list) and information about public access (how to listen in or watch; only listening in is available for District Courts)
- Main offices and people (First Justice, Clerk-Magistrate, Chief Probation Officer)
- Some courts (e.g., BMC Central⁷⁰) list Services, including Lawyer for the Day programs and calendars, which is good

Information Not Currently Available on Mass.gov

- Indoor maps of the building (very important for large courthouses)
- Information about availability of Zoom rooms (should be mentioned even if there are none)
- Personnel directory (clerks, etc., who are not listed above); this might be very helpful to attorneys trying to get in touch with a particular person

Directories and Trial Court Law Libraries

Trial Court Directory

The court should consider whether it would also make sense to have a centralized (rather than courthouse-specific) online directory of all Trial Court employees that the public might need to contact. Utah and Georgia are examples of two states that offer court directories online (see Slide Deck pp. 66-67).

Law Libraries

The Trial Court Law Libraries⁷¹ are a great source of legal information for attorneys, judges, and SRLs, and they have a robust online presence, including the ability to search the catalog online, so it makes sense to maintain that access in any redesign.⁷²

⁷⁰ <https://www.mass.gov/locations/central-division-boston-municipal-court>

⁷¹ <https://www.mass.gov/orgs/trial-court-law-libraries>

⁷² We recommend the report, *200 Years of Free Legal Information: From County Law Libraries to Massachusetts Trial Court Law Libraries*, available at

Similar to the Court Service Centers, law librarians at the 15 law libraries can answer questions and direct people to legal information and resources.⁷³ You can now contact law librarians and ask questions via online chat, text messaging, email, or Zoom (during regularly scheduled Zoom sessions on Tuesday and Thursday). Anyone can obtain help finding information about legal processes, finding appropriate forms, or other legal issues. As one law librarian told us, “Our questions range from evictions from the landlord and the tenant point of view, Superior Court 9A issues, Land Court and more. They can be very easy ... to the more complicated.”

This is a great service, but our assumption is that not many SRLs are aware of it. The law libraries also do not have the staff required to handle a significantly greater number of SRLs, although we were surprised by how many they currently do help. In November, 2022, these are the numbers of those who visited or contacted the Law Libraries:

- SRL & general public 2,069
- Attorneys 854
- Court staff 149
- Judges 10
- Court service center 8

There were also 119 unclassified visits or contacts. Although 551 of the visits were classified as self-sufficient (i.e., they used the physical library without assistance), 1,813 had a question requiring librarian expertise. Most of the contacts were in person (1,510), although there were also significant contacts via email (669), text/chat (653), and phone (327). There were questions about legal matters for all seven court departments, with the greatest number relating to the Probate and Family Court.

There are links to the law libraries on Mass.gov and Masslegalhelp.org, but we were informed by staff at the Law Libraries that people are also directed there from clerk’s offices, the Attorney General’s office, and both public libraries and those in correctional institutions.

Our recommendation is to advertise more widely this source of assistance for SRLs. However, given current staffing levels, we suggest that this increased advertising be limited (at least initially) to courthouses where there is a law library but not a court service center.

<https://www.mass.gov/doc/200-years-of-free-legal-information-from-county-law-libraries-to-massachusetts-trial-court-law/download>

⁷³ Four of the law librarians have their JD.

Recommendations: Best Practices for Designing a New Access to Justice Website

Perhaps the most important aspect of almost any website is that it should be designed well and organized such that it is easy to find what you are looking for. The overall organization, or information architecture, needs to be logical and fit with the “mental model” of the users. There should also be an effective search function. And, when a user finds information, it should be presented clearly and written in plain language. The most common recommendation we heard from SRLs was to “Make things easier,” which applied to legal proceedings, court forms, and the design and usability of Mass.gov.

This section lays out important general recommendations to keep in mind when designing a new Access to Justice Website.

Mobile Friendly

First, the new website should be mobile friendly. Many litigants, especially those with a low income, have smartphones but not desktops, laptops, or tablets. And more and more people, regardless of technical resources, expect to be able to interact with websites on their smartphones. It is thus crucial to optimize the web experience for mobile users by following mobile-first or responsive design principles. This will not degrade the experience for those visiting the site on a desktop or laptop computer.

Organization

The information should be much better organized and laid out than is currently the case on Mass.gov. It should have better “information architecture,” and there should be a better search function.⁷⁴

I try not to [use Mass.gov]. Again that's a really impossible interface. When this administration changed Mass.gov, it made it almost impossible to use. You have to click through like 12 different things to find what you need these days. It's just impossible to navigate, it's very difficult, and I know what I'm looking for, and so I can imagine if you were a pro se person, it would be impossible to find anything.

⁷⁴ California has a new Self-Help website, which we think is well organized: https://selfhelp.courts.ca.gov/?utm_source=courts-main&utm_medium=top-banner&utm_campaign=legacy-homepage-referral&utm_content=legacyhomepage

Many years ago, the Trial Court, SJC, and the Appeals Court all had their own separate websites. When they all merged and became part of Mass.gov it became much more difficult to find things, we heard. Here is one example from a court employee.

Just last week in my office, I was looking and we had some questions come in, and it was kind of an idea and I was searching our website for Greater Boston Legal Services organization, because I remember creating this page, and I couldn't find it as clerk and I'm like pretty certain it was there and I emailed three people in my office and two responded to that you know they couldn't find it then a third found it and it was there, but I'm like, I was saying, if it's this difficult for us to find how, you know, no, no member of the public can find it, so we have to think of different ways to link to it ...

Another court employee, when asked what Mass.gov needs, replied:

Better search capability, better tagging. Better information curation. When people search they should get everything they need... I think there should be a page for SRLs of the most common case types, and all of the form packets related to those case types should be available there.

And a third:

A lot of the information people need is there...a custody matter, the different types of divorce...the pages are there but people can't find them. The more complicated the case is, the less likely you are to find what you need. That is, there may be complexities in complicated cases and you will not find everything you need on Mass.gov.

These comments all highlight the importance of good overall site organization and an effective search capability. Also critical is the layout of each page, to make it easy for people to find the key information once they've arrived at the right place. A family law attorney told us:

Mass.gov is too word heavy and not simple enough and not inviting enough. People are used to graphics. The words have to be backed up with some sort of pictorial material.

We should note here that Mass.gov has been dramatically improved over the last few years, and some of the complaints we heard may no longer be valid.

The Home Page is Important

A well-designed home page is critical, and what is currently considered the judicial home page on Mass.gov has a number of problems.⁷⁵ Note that the design of even a single important webpage can require significant effort. We recommend studying the steps that the Nielsen Norman Group went through when creating a new home page: “Case Study: Iterative Design and Prototype Testing of the NN/g Homepage.”⁷⁶ In the process of redesigning their home page, the Nielsen Norman group went through multiple rounds of iterative prototype testing, first with low-fidelity wireframes and then with high-fidelity visual prototypes. Also, see the Slide Deck pages 8 and 9.

Plain Language

Content should be written in plain language that does not presume familiarity with legal terms or court jargon and processes. Many pages on Mass.gov explain legal procedures clearly, but there is still a lot of room for improvement, and there should be a system developed for explaining all technical terms, perhaps by hyperlinking to definitions or providing definitions in a side column on the webpage. (What, for example, is a “docket” and what is the difference between a “plaintiff” and a “defendant”?) There is a glossary of legal terms on Mass.gov,⁷⁷ and although there are links to it from 14 pages on the site, this is insufficient. See also our recommendations above about the glossary at the end of the section, [How Does My Legal Procedure Work?](#)

The National Center for State Courts has just advertised their Interactive Plain Language Glossary,⁷⁸ which contains 68 examples of “Use This, Not That!” The first three items give you an idea of how valuable this can be for most SRLs:

<u>Use This</u>	<u>Not That</u>
Reduce	Abate, Abatement
Amount claimed	Ad Damnum
Person who signed	Affiant

⁷⁵ <https://www.mass.gov/orgs/massachusetts-court-system>. Consider for example, the lack of clear informational and navigational links above the fold.

⁷⁶ Available at <https://www.nngroup.com/articles/case-study-iterative-design-prototyping/>

⁷⁷ <https://www.mass.gov/handbook/glossary-of-court-terms>

⁷⁸ <https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/plain-language/glossary>

One serious problem is the lack of usability testing of Mass.gov content – it is only by having representative users try to interact with the content that you learn which words and expressions are confusing to the average person. This is hard to judge when the site designers and writers have become very familiar and comfortable with legal terminology. See our further comments below about [Usability Testing](#), and the section on Plain Language in [Appendix 5](#). Even if someone is experienced with writing documentation and has training in plain language, they should still expect to revise initial drafts based on usability testing with representative users.

A Note about PDFs and Word Documents

The use of PDFs to present information should be limited, for many reasons. PDFs make navigation more difficult (taking the user to a document with no links to the rest of the website), and web search engines do not typically search the contents of PDF documents, which reduces the site search functionality. We recommend the Nielsen Norman Group article: *PDF: Still Unfit for Human Consumption, 20 Years Later*.⁷⁹ The authors offer seven reasons to back up their statement, “Do not use PDFs to present digital content that could and should otherwise be a web page.” They do suggest, however, that you may want to use Gateway pages. “Gateway pages are web pages that summarize the key points and critical information from a PDF, and then they offer users the option to download the full PDF without having to open it in a browser window, where it’s unfit for consumption.”

In many cases, all the information in the PDF should be on a web page, with a PDF provided only to facilitate printing. Consider the checklists for changing your name, which are very helpful.⁸⁰ These are just one page long, and in our opinion it would improve usability to include these checklists on a web page rather than requiring a download.

There are also Microsoft Word documents on Mass.gov that one can download. The same arguments for not using PDFs apply to Word documents. In addition, including Word documents on the site is worse than PDFs, because it is harder for those without Word on their device to open them.⁸¹

In cases where it does make sense to use a PDF or Word document, the link to open it should be clearly identified as one that will open a PDF or Word document.

⁷⁹ Available at <https://www.nngroup.com/articles/pdf-unfit-for-human-consumption/>

⁸⁰

<https://www.mass.gov/lists/probate-and-family-court-forms-for-adoption-and-name-change#name-change->

⁸¹ We realize that there are multiple free ways to open a Word document on a device without Word installed, but this typically requires extra steps and will discourage some people from even trying to open them, or be difficult for those without technical skills.

Staying Within the Site

Wherever possible, it should seem to the user that they are still on the new judicial website, even when the functionality is provided by a third party. In the early days of the web this was called “cobranding.” We both worked on SuperPages.com, an online Yellow Pages. SuperPages.com supplied the yellow pages functionality on AOL, Excite, Lycos, and other sites. But if you were on Lycos and went to the yellow pages, the pages looked like any other Lycos pages, with the Lycos heading and navigation, although you were actually interacting with the SuperPages.com servers and not the Lycos servers. It was thus easy to navigate to other parts of Lycos. On Mass.gov, in many cases you leave the site when following some links and it may be difficult to return. As one example, For The Record (FTR) audio recordings are available online,⁸² but the link on the Mass.gov page takes you to the FTR website⁸³ to login and you have lost all Mass.gov navigational elements. This could all be done within a Mass.gov framework such that the users never know they have left Mass.gov and thus still have available all the Mass.gov navigational controls.

Comprehensiveness

All information should be on Mass.gov and MassCourts.org and not scattered across other sites. Currently, there are multiple websites, although we assume that the separate websites below are rarely used compared to Mass.gov.

Some Registries have their own websites, and these websites contain some information not on Mass.gov. Here are three examples:

- Plymouth: <https://www.plymouthcountyprobate.com/>
- Barnstable: <https://barnstablecountypfc.com/>
- Bristol: <https://www.bristolcountyprobate.org/>

Usability Testing

Designers and writers become so familiar with their general domain and the organization they work for that it is impossible for them to see their designs and content through the eyes of a typical user. For this reason, usability testing is essential, and ideally an iterative process is used in which there are multiple cycles of testing, revision, and then more testing. Usability testing can be done relatively quickly, either online via a variety of online products,⁸⁴ or in person, and there is evidence that testing using low

⁸²<https://www.mass.gov/service-details/order-the-audio-of-a-proceeding-in-the-boston-municipal-district-hearing-using-juvenile-or-probate-family-court>

⁸³ <https://us.court.fm/Account/LogOn?ReturnUrl=%2f>

⁸⁴ Once tasks are established, data can be collected very rapidly, often within a day, using sites that maintain their own panel of testers. See, for example, <https://www.usertesting.com/>, one of many such services.

fidelity (even paper-based) prototypes can uncover the same problems as testing with fully functional systems.

Recommendations: Legal Proceedings, Forms, Courthouses, and Services

In this section, we move beyond the purely online world to discuss:

- Legal Proceedings
- Information but not Advice
- Legal Forms
- Zoom and Remote Proceedings
- Courts & Courthouses
- Interpreters

Legal Proceedings

Lack of Uniformity is a Challenge

[Consistency and Uniformity are Fundamental](#) is the heading of the section in the beginning of this report where we discuss the high-level goal of Improving Access to Justice. In this section, we provide the details of what we heard from attorneys and court personnel. Over and over again we heard about all the problems and inefficiencies caused by a lack of uniformity and consistency across court departments, and even within a department across counties within the state.

This is what we heard from an attorney who practices across the state in the Probate and Family Court:

The lack of uniformity is a real challenge and that's purely a practitioner challenge. From the pro se litigant perspective they're not traveling around to different courts, they have their case in one county. But from a practitioner's perspective, the lack of uniformity in terms of what sort of forms are being utilized, who has the responsibility of mailing out notices, how the notices are mailed out, who you're supposed to contact, how you're supposed to contact, and I understand that every court, every county Probate and Family Court is a very different operating system. What works in a small place like Franklin county is not necessarily going to work in Suffolk county or in Middlesex where they have a massive volume of cases. That being said, one thing that I think they could do better is having a uniform way in which emergencies are handled and how we're supposed to conduct those filings would be really helpful. Even if it wasn't uniform across the counties, to have a protocol in place for

something like how they handle emergencies, that's posted, published online, available, and that they follow.

Another attorney, who has practiced in multiple courts:

If I file a motion in BMC Central, I know from experience that I have to call them and request a date for that motion to be heard. If I do it in BMC Roxbury, though, they'll mark it up themselves [i.e., schedule a date]. [This makes it difficult for him, a lawyer who practices in these courts, so] "think how tough it makes it for individual folks [i.e., SRLs].

And another attorney:

There is no rhyme or reason as to what the court actually scans and makes available on the Attorney Portal on the docket sheets. [For example, some scan the Notice to Quit, some don't.]

An attorney with many years of experience who deals primarily with family matters:

There is no way anybody could crack this system, I can't even figure it out. An attorney will call me and ask me a question. And I'll have to say wait, which county are you talking about filing that in? And then I'll have to try to remember what I've heard about you know, the most recent bench bar information and then also okay do it this way, call this person. But like that's, you know, 15 years of insider information, so I don't even know how someone would do this if they are walking in off the street. If they were pro se if they were a newer attorney who had never you know practiced in Franklin county, like what would they do? It's completely incomprehensible and there aren't any directions anywhere.

The issue of lack of uniformity is well-known, has been pointed out repeatedly, and now seems to be a priority of the Probate and Family court, as one of their milestones in the new strategic plan is, "Uniformity of practice consistent throughout all 14 counties."

Handling Matters Administratively

This is another area beyond our experience and expertise, but we heard from several attorneys about how the court could improve efficiency by handling some issues administratively. The court could siphon off certain activities and have a single person handle them. Activities like a motion for a hearing to be handled remotely, or assented-to motions in general, should go to one administrative person and could then be handled quickly and efficiently. In other words, as one attorney put it:

The clerk should never even put their hands on this, like this is an administrative thing that can be handled by one person in that building to do all of these, right, and that would be really simple. And this is an opportunity for the court to really look at some of those kinds of things that could be handled that way, and that would make a big difference in the staff side, as well as the practitioners.

Dispute Resolution

We recommended above the addition of asynchronous [online dispute resolution](#), while here we talk about synchronous dispute resolution, whether in person or via Zoom. From everything we heard and read, dispute resolution is very effective and should be expanded whenever possible. As one court employee told us, “Virtual mediations [over Zoom] have been incredible.” He estimated that success rates had gone up by 25% in terms of agreements about divorce, parenting time, “you name it.” We heard about the advantages of dispute resolution from people in multiple court departments.

In the Boston Municipal Court, we heard from a court employee that attorneys from Greater Boston Legal Services, or other volunteer lawyers, can help *pro se* litigants in breakout rooms during dispute resolution in small claims court. In fact, we heard from an attorney who practices in small claims court that because GBLS is well established with the court, the court now gives them a list of upcoming hearings, and GBLS can go online (to MassCourts.org) to find addresses of defendants and mail them a reminder, as well as explaining that GBLS can help them. If GBLS is not present at a session, defendants are sometimes intercepted by a debt collection attorney and talked into making full payment, mistakenly believing that the debt collection attorney is employed by the court, and therefore not actually having a hearing or contesting the amount.

This is the type of successful integration between legal aid organizations and legal proceedings that we recommended above.

Default Problems

Defaults (where a party automatically loses a case due to failure to appear in court or respond to notices) seem especially frequent in Housing and small claims courts. SRLs often move, especially low-income SRLs, and may not receive court notices, which can result in serious consequences. One attorney told us that the court assumes the tenant receives the scheduling notice unless it is Returned to Sender, and automatically enters a default judgment against a tenant who does not show for the initial mediation session, even though there are many reasons the tenant might miss the hearing (never received the scheduling notice, didn’t understand the notice, had technical issues, was late due

to public transportation, and so on). He claimed there was “aggressive defaulting” in the Housing Court.

Similarly, in small claims court, as mentioned above in [Self-Represented Litigants, Self-Help Tools, and Reducing Disparities in the Court System](#), one study found that defendants were often defaulted immediately when they were not in attendance, but the corresponding outcome for absent plaintiffs, dismissal of the complaint, was much less likely to be imposed. To address discrepancies like these, we recommend creating and applying explicit and fair rules about defaulting and complaint dismissal.

Another attorney told us that although default judgments are common:

It's actually gotten better since the pandemic started, weirdly enough. There used to be around 70 to 90% default rates in debt collection cases and it's gotten a little better, but people generally don't show up, and of course they automatically lose. When they do show up and we can represent them, we have a very good track record of being able to either negotiate something that's quite favorable to the consumer or if we take a case to a hearing or trial, we have a pretty good record of being able to win based on a lot of these companies' very shoddy document file maintenance processes.

When asked what the court could do to reduce default rates, this attorney continued:

One big thing they are already doing, which is a good thing, is they are now holding most debt collection hearings via Zoom. But we've noticed, since the pandemic started, we've been keeping track, is that since they've moved cases to Zoom, for debt collection cases, more people show up which totally makes sense because they don't have to take a whole afternoon or morning off of work or find childcare to spend money on transportation in order to make it to court. So more people are showing up on Zoom. I think that, of course, this presents a technological challenge for some people, but I think that's fairly small in relation to the number of people that it actually is able to capture and get to court.

He went on to talk about the problems of non-video, audio-only teleconferences:

Now some courts are still doing teleconference hearings. Not Zoom, but teleconferences where the Clerk Magistrate can't see people, people can't see the Clerk Magistrate or the opposing parties, and I don't think those are good ways to run hearings. I know some district courts are still doing that, but it makes it very hard for us to represent people in those cases

and have any sort of organized lawyer for the day or clinical program to help those people, whereas Zoom is much better.

On the other side of this issue, we heard from one court employee that not being able to see the litigants was a good thing, because you were then less likely to be biased by race, gender, clothing, and other non-relevant aspects of the people involved.

Information but not Advice

In our interactions with people throughout the court system, we hear repeatedly that court employees can give information but not advice. This is drilled into all court employees to such an extent that fear of “crossing the line” can sometimes result in erring on the side of too much caution and preventing justice from actually being served.

Consider what one attorney who works on tenant eviction defense in the Housing Court told us:

Clerks don't tell tenants that they can try to get the default against them overturned; they only mention the option to delay their eviction, because they consider the former to be giving legal advice. [Later this attorney said:] but they ARE giving legal advice, just BAD legal advice.

Perhaps there should be more discussion – and perhaps training – on the distinction between giving information and giving advice, as this distinction is so important to SRLs. A court employee who is also an attorney, told us:

I think that there's a lot of uncertainty among people in the court system about what they can and can't do when they're communicating with self represented litigants – how much information they can give, and when does that stray over into, you know, giving legal advice as opposed to legal information.

And even when court staff can't give advice, they should be able to provide more information about organizations and people who can provide advice. As one attorney told us in response to a question about what a future court system could do:

Connecting people to outside resources. So, at the court we can't advise people and they're very hesitant to give information that I don't consider to be advice. I mean there's often, you just hear them say we can't advise you, can't advise you. I don't believe there's necessarily a clear instruction to those in a courthouse as to what is information and what is advice. And

there are so many resources out there, where people can get advice from but we're not pointing them directly to those services. We say Oh, you have to find a lawyer, you have to do this. Well, look in the Greater Boston. Legal Services website! I know we don't necessarily want to endorse other people, but we at least have to give them more info about where that information is because we're the ones with knowledge, they're not. Self represented litigants don't know where to look. I feel like we can do a better job pointing them in the right direction, people can't do all the work.

Legal Forms

There is so much to say about court forms that they deserve their own report, but we'll mention a number of the main points here. See [Appendix 5](#) for examples of poorly designed forms, along with information, guidelines, and examples of how to create usable forms. Improving forms takes time and cooperation among court departments, but it is not difficult. As one person told us, "There are things we can do; it's not rocket science."

Uniformity

The lack of uniformity in forms is a real challenge. One court employee explained why this was such a "huge overall issue":

One thing the court system struggles with and got highlighted in the pandemic is the lack of uniformity in procedures on how to do different things. And also, the related issue of trying to make them as simple as possible.

I take that up first because it's very hard to make information available online to people or to create automated procedures, like a Guide and File procedure, if different forms are being used by different divisions of the same court. Or if the procedures for electronic filing are different, and I think those are relatively uniform for the courts that actually have eFiling. But then there's this whole question of courts that haven't formally adopted eFiling yet, and if it's being done by email there's been, during the pandemic, there was a lot of variation. So that I think is the biggest overall problem.

It's easy to identify it as a big problem. But you can't solve it unless you really get your nose down into the nitty gritty of what all the differences are and how do you work to solve them, so I think that's a huge overall issue.

The recent report on *Creating a More Equitable System* agrees that uniformity is a problem, and recommends:

Prioritizing uniformity in forms used and filing procedures across each Trial Court department, particularly in Probate and Family Court, which would also dramatically improve the efficiency of CSCs.

When trying to understand how to fill out a form, it often helps tremendously to see examples, but providing examples online is difficult when there is a lack of uniformity. When we asked if the Court Service Centers could provide examples of filled-in forms, and then put these online, a CSC manager explained to us,

Yes, we can provide examples of how to fill out forms. In our location we had a big binder that court users were welcome to use that had examples of how to fill out forms for this county. They were the same example forms we used for trainings. I believe the other CSCs have similar forms. The reason such forms are not online is again the lack of uniformity. Certain courts like language written a certain way. Also sometimes in one Probate and Family Court you may use one form which would not be the same form to use in another court. For example, some may use a doctored version of the modification form to register and modify a foreign decree but in others there may be a specific form for that. Lack of uniformity means lack of examples.

When forms differ among Probate and Family Courts they may not appear online. For example, we were told the following forms may vary and are not available online: Correction of Vital Record, 3-party paternity actions, Separation Agreements, and Modifying or Enforcing a foreign judgment.

A packet of forms

Many civil legal procedures occur over an extended period of time and require multiple forms. We heard from many people that it would help to create a packet of all the forms you would need for a certain type of case. These should be available both in the clerk's office and online. Depending on the number of variations possible, the different packets for each procedure can all be listed or available after the user answers a few simple questions, such as whether they are married or related to another person involved in the legal issue.

The need for more information about legal procedures, and the help that could be provided by having a packet of forms, is clear. In one recent situation, we heard from a

very knowledgeable court employee about their personal experience with adoption. This person emailed us after our Zoom conversation and wrote,

I am someone who is familiar with Mass.gov, familiar with forms, and has a JD. When I went to identify ALL the forms needed for a second-parent adoption, I still wasn't 100% sure about what I needed without doing legal and procedural research. It seems fair to say that if I have difficulty ... many others will as well.

This court employee, although very knowledgeable about most family civil proceedings and forms, had to ask questions of a clerk, and then even consulted an attorney to make sure that they were proceeding appropriately. This person told us that a packet of forms would have definitely helped. They continued,

I think we should have downloadable PDF packets and they should be in the top 10 languages, like so here's the divorce 1A packet. And here they are in English, Spanish, Portuguese, Cape Verdean.

Currently, divorce forms are only in two or three languages, and all the translated documents are on a translated court forms page, which is a different page (and so difficult to find). When you find a form you should also find the translated versions.

Some form packets are available, but primarily in Court Service Centers. For example, we were given a packet for Filing for Guardianship of a Minor. The two cover pages list nine documents: the three everyone must submit and then the forms you will need to submit depending on your situation (e.g., if the parents of the minor agree or not with the appointment of a guardian).⁸⁵ There is a page on Mass.gov with this information, but we found that having most of the forms in a packet was very helpful.

Instructions

As one court employee told us,

There are technically none [i.e., no instructions]. There are technically none. [The court employee repeated this for emphasis.]

Ideally, instructions should be incorporated in a form, and only when extensive instructions are needed should there be a separate document with instructions.

As described above, Guide and File forms walk people through the process of filling out complex forms. Without assistance, SRLs will fill out forms the best they can, but the forms will often be rejected. When Guide and File is not available, or in addition to it, one court employee suggested

⁸⁵ This is for Suffolk County. We don't know to what extent the required forms vary across counties.

If there was some sort of software that would give you like a red asterisk or tell you like you need to amend this before you go forward. Or you can't go forward until you do this correctly. We need like a helpful guide or tip guide because we always are dancing the fine line between we can't give advice or what not, so a lot of people come on the register, virtual registry, and they asked me how do I do this? And we really have to be careful how we direct them.

For an example of form instructions from Nevada, see Slide Deck page 53.

There are a few (rare) cases of separate instruction documents available on Mass.gov that provide information and guidance for how to fill out every field on a form.

Not just forms

Don't just focus on forms, some people told us, and we agree, for it's also the case that various summonses and notices should also be improved, written in plain language and laid out better. One attorney described a scheduling notice that was hard to understand and confusingly laid out. The attorney suggested to us that making the Summons & Complaint easier to understand would decrease the default rate in summary process (i.e., eviction) proceedings.

The court should include the court date more prominently, improve the layout of the information sheet that accompanies the Summons & Complaint, provide the number for the clerk's office if you have any questions, and make it clear that you have to show up for the hearing even if your landlord claims you don't have to (she referred to a study that found a significant proportion of defaults are due to the tenant being told by the landlord that they don't have to appear in court).

The information sheet that accompanies the Summons & Complaint is so poorly laid out that tenants never read it; it's just a big block of text with no formatting to help you understand the information; also it does not focus on the information that is most important to know. If it just focused on 3-5 key things it would be so much more helpful and would cut down significantly on defaults

Many in the court understand these issues, and we heard from one person who has been involved in the form redesign process that the focus, historically, has been on the public forms found on Mass.gov. There also needs to be a focus on the notices and information sent to litigants and attorneys from MassCourts or Courtyard – summonses, notices of next appearance, judgments, orders, and so on. One way to address both

types is to review forms, notices, etc. by case type, such as domestic violence, small claims, or summary process. This has recently been happening, and it is an approach that, in our opinion, should definitely continue.

There is good evidence from a large-scale field study in New York City that redesigning the summons form results in reduced failure to appear rates. The changes made were straightforward: move the court date and time from the bottom of the form to the top, clearly indicate the court location, and highlight the consequences of missing the court date (i.e., an arrest warrant, which was mentioned only on the back of the original form). These simple changes reduced failures to appear by 13%.⁸⁶ The section on court forms in Appendix 5 provides links to examples of the redesign of speeding notices that includes both the original and redesigned notice. We think our reactions to the redesigns are typical: “Wow, what an improvement!”

Another problem, the process

One very knowledgeable court employee told us that, yes, there was a lot to say about forms, “But the bigger problem is the process. Some forms are not terrible ... but I’m inclined to believe that the confusion is on what happens next.” That is, the forms certainly have problems, but in many cases the more serious problem is that the court’s processes for dealing with a procedure (e.g., name change) are opaque to anyone who is not already intimately familiar with them.

Technical Difficulties

Over the past few years, many forms listed on Mass.gov have been difficult to download because the user had to either first download Adobe software or else follow fairly complex instructions to download a file and then look for it on their computer and then open it in a specific way (see [Appendix 5](#) for an example). One solution to this problem is to convert forms to HTML5, and JISD (the Judicial Information Services Department) started doing this a few years ago. We have heard that there are currently discussions within the court system about whether to continue converting forms to HTML5 or using Adobe. We don’t have the technical expertise to weigh in on this discussion, but as user experience researchers, we are convinced that whatever the solution, the following should be true:

- It should be very easy and straightforward for all court users to view, download, and print all court forms available on Mass.gov; ideally, the forms should be fillable online and then saved or printed or filed

⁸⁶ Fishbane, Ouss, & Shah (2020)., Behavioral Nudges Reduce Failure to Appear for Court, *Science*, Vol 370, Issue 6517: <https://www.science.org/doi/abs/10.1126/science.abb6591>

- Viewing, downloading, and printing court forms should be possible without the need to download or install any new software
- These capabilities should also be possible on smartphones, although we realize that it may not be possible to support some older models

Zoom and Remote Proceedings

The court has collected a lot of information about using videoconferencing for court events, including a survey that the SJC and Trial Court conducted in November and December, 2021 on the *Future of Virtual Technology in the Courts*. From the Executive Summary:

Participants supported the use of videoconferencing for short/time-sensitive, administrative court events, particularly where there is little need for evidence or witness testimony. Participants supported the use of videoconferencing for many proceedings, including scheduling conferences, status/discovery conferences, and initial case management conferences.

Our findings are in accord with the results from this survey. Everyone we talked to agreed with this use of videoconferencing, and many were dramatic in their enthusiasm:

Zoom. Way more Zoom. It is so much more efficient. [Any last comments?] Zoom!

However, in many cases, courts require in-person attendance even for administrative proceedings, and this varies widely. According to one attorney:

No rhyme or reason as to what's done virtually and what's done in person.

Zoom is not a panacea; it was a “disaster” for some low-income litigants who couldn’t get into the courthouses and couldn’t participate via Zoom (because they didn’t have appropriate technology or sufficient cell-phone minutes). In addition, there are many reasons why the in-court experience can be important – for litigants, attorneys, as well as judges.

We interviewed an attorney who does both criminal defense and family law and practices across the state in multiple court departments. He told us that many courts are taking away Zoom. When we mentioned the SJC survey, he told us that courts have not been following the SJC’s recommendations.⁸⁷ He said,

⁸⁷ The report on the survey did not actually present recommendations, just the results, but many results were so dramatic that it was easy to remember them as recommendations (e.g., over 90% supported the continued use of electronic signatures).

I was in [one of the] District Court[s] Friday. My client is not in custody, she had to come from Providence. And for really a scheduling hearing. We went in front of the judge, the prosecutor said I'm getting them this piece of evidence they'll have it soon. The judge said what further court date do you want, that was it. So she came all the way from Providence for that. I live, maybe 15 minutes away from the court, not that far, but had to meet her there. I mean it's good to see the client, but what did she have to show up for? We did this over Zoom during Covid. And I have no idea why. I was just told nope, everything you have to show up for.

There are benefits for both in-person and remote court events, and many other reports and surveys provide lists and discussions. We refer the reader to the A2J report on *Creating a More Equitable System*, in which they list ten benefits of in-person court events and eight benefits of remote court events (pp. 12 & 13). Everyone agrees that some types of remote proceedings should continue, as there are cost savings and benefits for all parties. There are definite drawbacks, however, which could be mitigated via an early case assessment event. The recent A2J report makes an excellent recommendation:

Going forward, we suggest all Trial Court departments implement an initial event, i.e., a “Step One: Navigation” event, the sole purpose of which would be to assess and address issues of access, whether technological, language-related, disability-related, or otherwise. Default should not be entered at the “Step One: Navigation” stage because failure to appear may be caused by the very impediments the event intends to identify and address. Instead, failure to appear should result in scheduling the next event in person. This new initial event would not require judicial participation and, in some cases, could be skipped altogether. Litigants could bypass this “Step-One Navigation” event by submitting a form confirming access and readiness to proceed substantively (p. 14).

We found extreme frustration among many attorneys about the inconsistencies in scheduling remote proceedings and the return to in-person events even when it appeared that all parties would agree to and benefit from a remote proceeding. We thus strongly support the A2J report’s recommendation for creating an optimal hybrid court system:

Each department of the Trial Court, in conjunction with representatives from the Executive Office of the Trial Court, the Office of Court Interpreter Services, and outside organizations that work with SRLs, should draft clear standards, which are accessible to the public, governing when

remote hearings should occur, what occurs in exceptional cases, and how to enforce the standards fairly (p. 16).

For many types of cases, a case management conference is the first time the two parties come together before a judge, so it can be important to hold it in person despite the inconvenience. As one attorney explained:

There's something important about having the judge there to endorse, or explain, or see the parties and understand the power dynamics, or if there's a language issue get a court interpreter. So that's the delicate balance.... Having said all that, going back to my original point, though, something as simple as scheduling the next hearing date, a lot of people would prefer to do that remotely.

Advantages of being in the courtroom

Several attorneys pointed out that for some types of cases or proceedings there is an enormous benefit to being in the courthouse and in the courtroom compared to being on Zoom. They gave many examples. While waiting, a person sees what happens in other cases, watches their lawyer and other lawyers, and this is often an educational experience. Seeing someone led away in handcuffs may motivate them to pay child support or alimony. The judge watches the entire courtroom the entire time. The ex-husband has brought the girlfriend. Mom says the girlfriend is interfering with the kids, and the judge believes her because he or she has seen it in the courtroom.

And for lawyers, there are many opportunities in the courthouses to negotiate with other lawyers, which can help speed cases along.

Eliminate audio-only hearings and use Zoom

Teleconference hearings (without video) rather than Zoom are “terrible” we were told, and still occur in some District courts. There are multiple problems: it’s even harder to judge credibility without video, there are constant interruptions with teleconferences (every time someone enters or leaves there is a beep), and you can’t tell who everyone is by just hearing their voice. Although there are introductions at the beginning, you miss this if you’re a little late, and even if you’re there for the introductions, it’s often hard to distinguish between people’s voices.

As we mentioned above, however, there was one court employee we talked with who prefers teleconferences rather than Zoom because it supposedly reduces prejudice and you don’t know whether someone is young, old, Black, or White.

One attorney argued strongly for Zoom rather than only telephone-based hearings, and was alarmed that some in the court system don't realize that you can connect to Zoom via a regular phone. We assume this is a problem that has been resolved, given the additional experience everyone now has with Zoom.

One thing they could do is potentially, first thing is to get rid of telephonic only hearings and switch those to Zoom. If the Court still wants to remain remote, fine, but they shouldn't do teleconference hearings. I had an alarming conversation with one of the Clerk Magistrates who was not aware of it, because I proposed to him, I said why are you still doing teleconference why don't you move your hearings to Zoom? And he said, well, a lot of people who we deal with don't have Internet connections and they need to just call it on the telephone. This was alarming to me because he was not aware that you could do that on Zoom. That you could actually do that on Zoom. Each [Zoom] link has a phone number associated with it, where you can just pick up the phone and call. It was alarming to me that somebody who's in charge of operations in a major court was not aware of that feature on Zoom and I imagine he's not the only one.

Some things take a lot longer over Zoom. For one legal aid attorney:

One thing that I have found since we've been remote and this is pretty uniform across our organization is that things take a lot longer being remote, especially when you're dealing with clients. And what an example of this is, in order for us to be able to represent a client, we have to have them sign several different documents. This could be some sort of letter of engagement, or an appearance form, an affidavit, whatever. Prior to the courts being remote, we were there in person talking to the person, so we could just have them sign it, and it would take five seconds. Now, we have to draft the form, call them, figure out the best way for them to sign it, email it to them, text it to them, wait for them to sign it, call them again to remind them to sign it, and what used to take about 10 seconds now takes maybe 30 minutes in total. So that is a huge time sink for us. We're constantly trying to brainstorm ways to make that more streamlined.... cases just take longer to work on now than they did before.

Courts & Courthouses

Although the focus of our research was on how the court can continue its migration online, physical courthouses will remain, and many people have a lot to say about them.

From our own experience, there are also a variety of relatively minor changes that can have a major impact on the user experience of court visitors.

Information at Court Entrances

Information desks

One of the easiest and quickest improvements that would help SRLs is to have court staff available immediately past security at the larger courthouses to answer simple questions. This information desk can be as simple as a folding table set up for the first two hours in the morning, when the majority of people are entering courthouses. We have advocated this for several years, and it was also rated highly in the Appleseed report: "...routine questions such as directions, interpreter requests, or basic questions about court processes could be handled by information desk staff...." A natural experiment during COVID confirmed the value of this approach. During COVID, the Boston Municipal Court (BMC) closed their regular office and set up a table at the Edward W. Brooke courthouse in the large open space right past security. You can see this table in Figure 1 above. The clerks provide information to litigants from other court departments in addition to the BMC, and our understanding is that this BMC table will remain even after the pandemic has completely abated. It serves, in part, as both a welcoming and information counter.

Staff at these information tables should be multilingual, and wearing badges indicating languages spoken is a good idea. Apart from providing directions and information about services provided by the court and legal aid organizations, the impact of a smiling face should not be underestimated. Going to court can be extremely stressful, and when one's first interaction is with a friendly court employee, that can set the tone for the entire visit.

When entering large courthouses there is currently very little useful information immediately available. As one court employee told us:

There should be more information for pro se litigants when they enter a court house: There should be visuals, giant posters when you come to the courthouse. Visuals for resources available to pro se litigants; here's the virtual registry. Here's attorney for the day. Instead of just giving papers. The Trial Court has TVs. Put this information on giant TVs.

Another court employee told us:

When you walk into court there should be something there to help you figure out how to navigate the courthouse....At the very least, there should be a large sign outside the courthouse telling you what courthouse it is

and when you go inside there should be a map telling you where everything is. I got lost on my first day in the Worcester courthouse.

A sign with the name of the courthouse? Is this really necessary? Yes, it is: we have spoken with people entering the Brooke courthouse who were actually supposed to be in a nearby courthouse.

Information about legal aid

Many legal aid organizations operate in the larger courthouses but their presence is not well known to the public. There should be a poster upon entering with a listing of legal aid organizations that will be in-person that day and where they will be. There should also be better information online as well as in libraries, community centers, and so on. All the attorneys we have spoken with at legal aid organizations agree that posters upon entering would be a good idea. We realize that this is not easy, given fluctuating schedules depending upon attorney availability, but it is worth the effort.

Here's one example we noticed in the spring of 2022. The Family Law Clinic took over the large counter on the second floor of the Brooke courthouse in Boston (it is not used by the court). This group is at the Brooke the 1st and 3rd Wednesday of the month and during that time they have attorneys in offices near the Court Service Center. They have a large informative sign on a tripod in front of their counter: "Free Legal Help for Low-income Clients....Clinic for legal advice and help with drafting documents." However, if you take the elevator after entering the Brooke (which many people do), you would never know that there is a Family Law Clinic on the second floor. A copy of their sign should also be displayed in the lobby past security.

Zoom Rooms

During the pandemic many courts opened Zoom rooms in courthouses where litigants could participate in hearings over Zoom and also do research on their cases. Everyone we spoke with said, Great, but there should probably be more. Just opening Zoom rooms is not enough, however, because they need to be monitored and some people will need assistance. We assume someone at the court is collecting information on their usage and feedback on their effectiveness but we have no knowledge of the results.

Partnering with Libraries, and Public Kiosks

Partnering with Public Libraries

There is an existing Court A2J initiative that involves partnering with libraries, and this seems like an excellent idea. Norwood Library is one of these libraries, where, "Quiet,

private spaces are available at the Morrill Memorial Library to attend court remotely using a library computer” (<https://www.norwoodlibrary.org/access-to-justice/>).

Legal Kiosks

The Center for Social Justice in the Western New England (WNE) Law School in Springfield just recently launched a free Legal Kiosk initiative throughout Springfield (<https://www.legalkiosks.com/western-new-england>). On the website there is a toolkit containing a poster, a quick guide, a brochure, and a “One-pager” with this description:

Legal Kiosks are computer stations located across the greater Springfield area. They provide greater access to the justice system to individuals without access to wifi or technology. At a Legal Kiosk, community members can find free civil legal service providers nearby, access legal resources, print documents and, in some cases, attend online meetings and remote court hearings in privacy.

The legal kiosks are currently available at 11 locations around Springfield, including at five libraries, Open Pantry Community Services, United Way of Pioneer Valley, and Martin Luther King, Jr. Family Services, among others.

There are two types of Kiosks:

- Model A Kiosks are mounted to rolling carts. They are located in lobbies and other well-trafficked areas.
- Model B Kiosks are mounted to a desk. These Kiosks are located in rooms that have the ability to create a confidential space while the Kiosk is in use.

This seems like an excellent idea, and is very similar to the Trial Court’s A2J Library project described above. We strongly recommend consulting with the Center for Social Justice at WNE to learn about the launch, get usage statistics, and learn about the level of support and maintenance required to lead to adoption and enough usage to justify the expense and resources required to set them up. Is it better to install legal kiosks in libraries, social service agencies, within courthouses, or other locations? And perhaps most important, are the majority of SRLs able to use these kiosks without assistance?

Kiosks in the SJC

Before the pandemic, the SJC had a kiosk in their office. We were told:

Unfortunately, we had to remove it during the pandemic because it was a place where people would congregate and you could actually eFile there

at the kiosk. It didn't get a lot of activity in the past, so we're not going to bring it back, but SRLs would use it to eFile, we showed them how to do it.

This kiosk could accommodate somebody coming in with paper documents, as it also had a scanner. It was actually more of a station with a PC than a kiosk. Litigants required some assistance from the clerks, who came around the counter to help them. Whether something like this would be useful in clerks' offices of the Trial Court, with their vastly larger case load, is an open question.

Kiosks in the Trial Court

One court employee, however, was convinced of the need for kiosks, and summarized a number of points for us:

Courthouses need to think of having technology ingrained in their design. Every courthouse in the future should have a computer kiosk in the front that people can use and it can be defaulted to Mass.gov or whatever the access to justice portal is, and it should have a link for self help and a link for attending a Zoom hearing and it should have a link to attend the Virtual Court Service Center.

And that room or kiosk area should have a printer that you can print forms or have forms available for you. We need both – a kiosk in a hallway, a navigation point for navigating the court system, and separately we need the private areas [Zoom rooms] where you can connect to court proceedings or the Virtual Registry/Court Service Center.

Overall, our whole design, our courthouse design, needs a fresh look. We should look at all of our waiting areas and the amenities. I can't imagine during COVID going to a courthouse and not having anywhere to sit down in a quiet place, ... and we should look at general accessibility, both online and in the courts. Font size, color palettes.

Technology

As everyone knows, there are problems with WiFi in some courthouses, either very low bandwidth or no WiFi at all. Improving bandwidth and WiFi in courthouses is now a major priority for JISD.

During the pandemic, cell phones were allowed in courthouses, and this has had a major beneficial impact on SRLs. It's a "game changer," one attorney told us. We assume this rule will remain. Another attorney commented that the ability to bring cell

phones into courthouses “is huge; that needs to stay, because it’s the reality of living in the 21st century: child care, all those things.”

Another court employee made similar points to the last employee we quoted:

We are in a zone that has a very poor cellular connection. We have a lot of litigants who have virtual hearings that come in and they don’t have the capability to go on virtual, they don’t have the data, the phone to do so. So when you’re talking access to justice, just virtual stuff, we need to optimize technology in the Trial Court.

We should have kiosks in our registry, and also the ADA coordinator... but we need smart tech, we need kiosks where people can sign in and do their virtual hearings from a room in the court if they don’t have the technology. We need WiFi.

Taunton has a “digital” courtroom where digital evidence can be shown, but it’s shared with several courts. Most courts don’t have capabilities for showing digital evidence, we were told; e.g., playing a video from a laptop. One attorney described this as becoming like a comedy, where you burn a disc and give it to the judge, who tries to play it from his or her laptop, but fails and someone else has to try.

Court Staff

Our own experience with court staff has been very positive, and most attorneys acknowledge the good work most court staff do under often difficult circumstances. We did hear a few stories about court staff who didn’t know the basics about some legal situations. The pandemic caused additional stresses, and one attorney told us that the “Court staff is very new, very resentful in general about having to be there and deal with the public [during the pandemic] and they don’t know what the heck they’re doing.” She continued, “we hear it all the time from our clients that they’ll go into the registry and ask for a form to get a certain order dealing with custody and they’re either told that the court doesn’t do that or they’re given the wrong form.”

In many cases, court departments seem to need more staff. “Most of the courts are understaffed. Some need more technology training,” an attorney told us. When we asked whether online courses about legal procedures would be useful for SRLs, another attorney told us, “The court staff needs to do that, and I’m not being funny.”

A court employee admitted, “We just don’t have the staff to get everything done.” And a probation officer agreed, telling us, “When you are fully staffed in the court, the operation of the court is much better than when you are understaffed. Then it is impossible to deal with everything. It is very stressful.” We heard the staffing issue

repeated several times. “It can take 3 months to get a clerical error corrected” (in the Housing Court) one attorney claimed, while another summarized the situation:

The biggest non-technological challenge for the state courts is always a staffing issue. They don’t have enough people to perform at their highest and best function ever.

Another attorney also mentioned that not just SRLs, but court staff, could benefit from video tutorials and libraries. Latinx people sometimes get grief for how they dress, we were told:

There needs to be a higher level of sensitivity about low-income status and not really having access to the types of clothes that other people do. Honestly, I feel like we could flip this. I honestly think the court staff need a video library, and the judges, with advice on ... having a little bit more sensitivity to the antiquity of some formalities. Of course, we’re not saying people should show up like, “Yo, judge, here’s how it is,” but if the person comes in and is in jeans and a flannel button-down, why don’t you assume that that’s the best they could do today?

Communicating with the Court

With respect to communicating with the court, we heard many comments and suggestions.

Via Telephone

In terms of catering to the “lowest common denominator” of SRL, one attorney said that “you may find the court is almost forced to have telephone availability, for people who either lack the means of electronic communication or they’re totally befuddled.”

Of course, the court needs to determine how it wants to communicate and staff accordingly. A court employee told us:

We can’t man phones. Email is the only thing that’s working. If someone emails me I email them back in 15 minutes, but if someone calls me “that’s a black hole.” But why do you have to call me when you can go to the virtual registry?

Communication preferences vary

One attorney told us:

My experience with my clients, and our client base, is depending on who they are really can depend on how they like to communicate. I have clients that will text with me but will never answer a phone call. And I have clients who would meet on Zoom all day long but wouldn't respond to an email. So if you could give the choice to the client, I think they would all be beneficial.

Several attorneys told us that their clients prefer text, but whether this will work in communicating with the court we don't know.

A Call Center

A court call center is an idea worth considering. Think of it as a virtual registry, but for all seven of the Trial Court departments. The staff would be trained on using MassCourts and would look up cases for callers, refer people to the Court Service Center (virtual and physical), the Virtual Registry, legal aid organizations, and so on.⁸⁸

Litigants' Contact Information

Low-income litigants often move and may change their phone numbers, but yet it's often critical that the court be able to contact them. We heard, and agree, that the court should try to collect more contact information from people, starting with the initial police interaction, and then on the court intake form. This will help tremendously in being able to contact people with information and reminders about their case. Since just about everyone texts, this should include a mobile phone number, but also an email address.

Court Service Centers

The Court Service Centers provide individual assistance in seven courthouses. In courts where there is no CSC, we heard that clerks often try to give assistance themselves, but more commonly the clerks will refer people to the Virtual Court Service Center. When court clerks in the larger courthouses with CSCs can't help someone, they tell them to go downstairs to the CSC, and in fact it is our impression that most people who arrive at the CSCs do so on the recommendation of a clerk in one of the court departments. Legal aid organizations also often recommend that people they are unable to help go to a Court Service Center (note that there are both income limits and immigration status requirements for some legal aid organizations, but not for the CSC).

Many attorneys told us that in-person one-on-one assistance is often required to help people with their case. We asked attorneys whether including more and easier-to-use

⁸⁸ We heard reports that a similar service was initiated in early 2020 as a result of the pandemic, but have not heard about how often it was used and whether it was deemed a success.

information online would help, but as one attorney responded, “our clients would not usually be able to navigate any of those [online] services by themselves.”

In the four years we’ve been doing research for the Trial Court, we have heard only positive feedback about the Court Service Centers. They are extraordinarily valuable for SRLs. Ideally, the physical Court Service Centers should be staffed and open every day, all day long. Currently, in-person services are available on Tuesdays and Thursdays at one of the seven Court Service Centers, while the virtual Court Service Center is available Monday through Friday from 9 am until noon.

For years we have argued that increased funding for Court Service Centers is one of the most direct and quickest ways to assist SRLs, and we were pleased to see that this is also recommended in the recent A2J report on *Creating a More Equitable System*: “To maximize the number of SRLs served by the CSCs, the Commission recommends: Making increased staffing of the CSCs a budget priority for the Trial Court” (p. 8).

Over the years, the CSCs have accumulated a tremendous amount of information about the legal procedures they focus on, and much of this information is not available outside the CSC, but it should be. With additional funding, CSC staff would have the time to work with Mass.gov content developers and make more of this information publicly available.

Nonlawyer Navigators

Many of the volunteers working in Massachusetts Court Service Centers meet the definition of nonlawyer navigators in a recent study by McClymont (2019): they do not have formal legal training, are not court employees, are physically located within a court, and provide direct assistance to SRLs. They do not have an attorney-client relationship with those they help, and they receive training within a formal court program. The results of the study were very positive:

“Programs demonstrate that well-trained and appropriately supervised navigators can perform a wide array of tasks. For example, they help SRLs find their way around the court; give practical information and referrals to other sources of assistance; or complete their court paperwork. Navigators also accompany SRLs to court to provide emotional back-up, help answer the judge’s factual questions, or resolve a matter with opposing counsel” (p. 6).

Among the 23 programs studied, there were no complaints about the unauthorized practice of law. “Across all the programs studied, navigators generally perform eight distinct kinds of tasks:

1. “Helping people physically navigate the courthouse
2. Referring SRLs to other sources of assistance
3. Providing legal and procedural information
4. Sharing options with SRLs
5. Assisting SRLs with forms or other documents
6. Translation and other language assistance
7. Accompanying SRLs through different activities in court
8. Offering feedback to courts and service providers based on navigator experiences working with SRLs” (p. 19)⁸⁹

We are presenting some of the findings from this study because the situation for low-income litigants in civil cases is dire, and because the potential benefit from employing more nonlawyer navigators is enormous, especially considering the low cost. In Massachusetts, the seven Court Service Centers train and use volunteers. Although the volunteers focus primarily on tasks 3 and 5 from the list above, they also often help with tasks 1, 2, and 6. We recommend that the current program be dramatically expanded, both in the number of navigators and the types of tasks they work on. Although perhaps organizationally difficult, an ideal outcome would be to also expand the program to additional courthouses beyond the current seven. Court navigators could also work outside the Court Service Centers, in clerks’ offices and in public areas of a courthouse.

An anecdote from our past work makes clear the benefit in terms of emotional support that a navigator can provide. When the first author started working with the Trial Court on projects with graduate students from Bentley University, the students recruited people as they entered the Edward W. Brooke courthouse in Boston. With their permission, the students accompanied these people while in the courthouse, often for two or three hours, as they visited clerks’ offices or spent time in courtrooms during legal proceedings. Through their observations and talks with the litigants, the students came to understand their experiences while being in the courthouse and attending to their legal matters. At the end of a multi-hour visit in the courthouse, one woman asked the student whether he could also accompany her to court in three weeks when she was scheduled to return. She was alone, she was emotional and under a lot of stress, and it really helped her to have a calm and supportive person with her. He had no legal training (or even knowledge), he had no information or advice to share (and, of course, he was told not to provide advice), but he was an empathetic individual and he provided

⁸⁹ We have changed the format, creating a numbered list, but the quote is verbatim.

valuable support just by being with her. From our experiences talking with people in multiple courthouses, this is not an uncommon situation, and is one of several ways in which the current volunteer program within the Court Service Center could be expanded.⁹⁰ In existing navigator programs it is rare for the volunteers to accompany SRLs into the courtroom, but among those programs where it does occur, the directors feel it is critical and would like to expand it.⁹¹

Navigators may even reduce the time in court, improving efficiency. Many court personnel running these programs “commented on the utility of navigators being available to ‘listen to peoples’ stories.’ Said one, they ‘listen to people and are more patient,’ while another offered that the SRLs want ‘to have their say and be heard. They need to talk and tell their story and the judge doesn’t need to hear all the details.’ She added that if the SRL has been able to talk to a navigator first, ‘it shaves 20 minutes off what the judge will require.’”

Miscellaneous Suggestions

Scribing Services

New Mexico offers what they call scribing services, where a volunteer will read forms aloud to you and write down your answers (see the Slide Deck, p. 35). This is similar to what Massachusetts offers in Court Service Centers, although a scribing service can reach a lot more people if the volunteers are deployed throughout a courthouse.

Daycare Centers and Nursing Mothers

Some courthouses were originally designed with plans for daycare areas (there are still some maps in courthouses that list daycare areas), and providing childcare would be a great service to many people. We realize that there are many issues and costs involved, including legal liabilities, and this is unlikely to happen anytime soon. However, there is also a need for nursing areas within courthouses, and there is currently no place for litigants, attorneys, or visitors to nurse or pump. Some attorneys ask to use the Court Service Center offices for these tasks in between hearings. It should not be hard to designate a room or two in large courthouses for nursing mothers.

Night Court

You can go shopping at many stores in the evening or weekends, and you can often call technical support for your PC 24/7. Why not some court sessions one evening a week

⁹⁰ We realize, of course, that although the navigators may be volunteers, it requires significant effort on the part of court staff to train and supervise them. To create and expand a navigator program in Massachusetts would require additional staff.

⁹¹ In Massachusetts, the Court Service Centers may actually work with both parties in a dispute and will not accompany litigants into a courtroom, as that is thought to blur the line between assistance and advocacy.

or on Saturday morning? As one attorney told us, “night court would be great, would be really huge for people.” A court employee said the same thing:

Why are we 8 to 4:30? Why not twice a week virtual court sessions? Why can't you do block sessions at night, or drug sessions virtually, or hold these groups at night? Why are people taking time out for work? If the trial court offered more OT, people would gladly do this work. Or a different schedule. Contracts, union may be a problem.

Of course there are union and personnel issues, but private (unionized) companies have figured this out and the court could also.

Interpreters

The court provides interpreters for those who do not speak English, and also provides accommodations for people with disabilities. We heard more about interpreters provided by the Office of Language Access than about accommodations for people with disabilities. We talked with many interpreters over the last several years, found their professionalism and dedication amazing, and agree wholeheartedly with an attorney who told us that court interpreters “universally are extraordinarily qualified, not just in terms of their language skills but in terms of interpreting practice and praxis.” A probation officer told us that court interpreters are “like gold” – there just aren’t enough of them. For this study, however, we have not talked with interpreters and the quotes below come from attorneys and court employees (who are not interpreters).

There are a variety of related issues with translation. For example, when a request is made for an interpreter at a hearing, then any court orders that result from the hearing should be translated.

Better information and ways for litigants to request interpreter services

We heard from several people that the court should include information in notices that you can request interpretation services. The jury summons, we were told, does not include any information about language interpreters or ADA accommodations, and we were also told that there should be a better interface to MassCourts so *pro se* litigants can not only get information about their cases, but also request an interpreter.

Interpreting in person versus over Zoom

Although we assume that SRLs would rather have an interpreter standing next to them, it is much more efficient for the court system to provide interpreters over Zoom, and they

can interpret for far more people per day. As one court employee who used to work in the Office of Language Access told us,

With Zoom it became so much easier. You need an interpreter and we find out in ten minutes who's available and I'd send them the Zoom information. I didn't have to figure out where everyone was physically located and where they could get to.

Attorneys don't always request an interpreter, or someone drops the ball and no request is sent in, and if it is an in-person event an interpreter may have to travel to the courthouse. With Zoom it became much more efficient and some interpreters can do 40 cases in a single day, one right after another.

An attorney told us:

The issue was interpreters being pulled into multiple sessions and multiple physical places on the same days so even if you made the request in advance right, that was a real problem. I think for cases where you know you're going to have interpreter requests, allowing that interpreter to be present remotely, that's huge, that's a huge deal instead of driving from Fall River to Boston for one morning session.

Complaints about getting an interpreter

Some of the larger courthouses have Spanish interpreters in attendance full time, but if you need a language other than Spanish and an interpreter in the courthouse, then we heard complaints about occasionally waiting a long time for an interpreter to arrive.

The need for interpreters outside the courtroom

It is a priority to provide interpreters for court proceedings, and trying to get an interpreter for other court business can be a problem. One attorney explained that, although there is a right to an interpreter, it is only in the courtroom itself, not when interacting with clerks and other court personnel.

A court employee agreed this was a problem:

So long story short, I don't think we have a mechanism of assisting people with language issues outside of the context of the physical court hearing.

That employee went on to suggest a partial technical solution, perhaps involving a kiosk with five to ten of the most common languages.

An attorney pointed to the usefulness of multilingual navigators, or more use of the language line.

Having bilingual or multilingual navigators is essential because at this point in time, the language access is really only once you're before a judge. That's really the only time you're seeing it, is that once you get before a judge. An interpreter is there, or being called. But they're not getting it at the front door where they don't know where they're supposed to be. Or what type of case it is. And then sometimes getting it at the clerk counters but not always, I mean there's a lot of Spanish speaking employees at a lot of our courthouses, but that's just one language. I know it represents 60 plus percent of our language base but it's not everyone. The language line is being used a little bit more, but not as much as it could be. And I still don't see the clerk picking up the phone at the front counter and calling the language line when someone is there. I still see in various courts, I hear saying, I can't understand you, Sir, I don't know what you're asking for. Is there anyone here who can help you? I'm not seeing usage in the moment of that language. And while I know it's a burden and they're overworked at that clerk's counter and they might have five more people behind that person, I'm just not seeing that part to occur.

Another thing we heard was that in mediation sessions for Spanish-speaking tenants the mediator will often speak Spanish but there is no separate trained interpreter providing verbatim interpretation, which leaves the tenant at a disadvantage.

Simultaneous interpretation

Zoom supports simultaneous interpretation but we heard that only some courts have figured out how to do this while ensuring that the FTR system works well. All courts should be able to use simultaneous interpretation. We're not sure if there are technical or equipment issues with some courts or whether it is just a matter of training courtroom personnel.

Language line and technical solutions

The language line works; not as well as an in-person interpreter, but much better than nothing. We spoke with one probation officer who speaks Spanish but sometimes has probationers who speak other languages. She uses the language line, which makes visits much longer than usual. However, language line is "extremely helpful":

For the probationer it was a relief because they were able to communicate themselves and not feel like they weren't getting their point across.

Another probation officer uses Google Translate on home visits, handing the phone back and forth. She also uses the language line for three-way calls, "But even then, there's a lot lost in that because you say a sentence, you wait, it's not a fluid conversation."

Recommendations

- All court employees should be trained and encouraged to use the language line when an interpreter is not available
- Include information about an individual's rights to request an interpreter on all court notices and summonses
- All courts should be encouraged to use simultaneous interpretation when it is requested
- When the SRL is physically in the courtroom, efforts should be made to have the interpreter physically present as well
- Multilingual court employees could wear a badge listing the language they speak. That would be "awesome" one attorney told us.
- Interpreters should be available for mediation sessions

Conclusion

Summary

We have tried to provide some insights into the current operation and problems within the Trial Court by summarizing what we heard from attorneys, court personnel, and SRLs. In many cases, we let our respondents talk directly to our readers by quoting them extensively. We also brought in information from our observations in courthouses and from what we learned from examining the judicial websites of other states.

The Trial Court did an excellent job in dealing with the pandemic and moving rapidly to facilitate remote work by staff and keeping some court proceedings and services available via Zoom. The court also worked assiduously to protect the safety of both employees and court visitors.

Now it is time to continue the rapid transition online, which was enthusiastically supported by pretty much everyone we spoke with, while recognizing that there will continue to be some people who are only able to interact with the court offline. It is time, too, to deal with long-standing issues, such as the lack of consistency and uniformity throughout the Trial Court. There is also a need to redesign court forms and improve the usability and utility of Mass.gov and MassCourts, as well as other online sites that attorneys and litigants are required to use. These issues hamper the efficiency of the court and hinder its ability to provide justice for all equally. In this report, we provide recommendations to address a wide variety of issues. We also pass along many suggestions that would be very beneficial, but may be difficult to implement, such as extending court hours into the evening, or providing transportation vouchers for indigent litigants.

Legal aid organizations providing pro bono assistance to low-income litigants also had to adjust quickly to the pandemic, and like the court system, many of these organizations will continue with many of the changes they instituted. The Association of Pro Bono Counsel produced a report titled, *Positive Change: How the Pandemic Changed Pro Bono and What We Should Keep* (2022). Their recommendations are very much in line with what we found in our own research. Here are five of the eleven pandemic changes that their report says should remain, and these apply as well to the court system (bullets below are verbatim from the report, p. 2):

- Virtual Clinics. Retain virtual clinics, by phone and by video, to maximize the geographic reach of legal advice.

- In-Person Options. Understand the limitations with use and access to technology. Continue to provide in-person consultation and meetings, but provide access to technology in remote areas and for clients of limited means, when possible.
- Remote Hearings. Courts and administrative agencies should evaluate in which circumstances remote hearings increase access to services or otherwise benefit low-income and vulnerable populations.
- E-Filing. Courts should allow both e-filing and paper filing, as well as remote notarization of documents, to take advantage of the benefits of technology while accommodating those without access to it.
- Courts and Technology Training. Courts should train their own personnel, attorneys, and litigants on the effective use of technology for remote hearings.

Limitations and the Work Ahead

Our research has limitations that we are well aware of. As one example, a judge, after reading an earlier draft of this report, wrote to us that our focus on SRLs left out many important types of court users, and as a result we did not discuss the priorities for these other types of users. The judge wrote:

Users other than SRLs are attorneys (civil and criminal on both sides, public sector and private); jurors; represented parties in both civil and criminal cases (including criminal defendants); witnesses (including crime victims, police officers, and non-victim civilians); spectators (including media and also including family members or friends of victims and of criminal defendants or other parties). All of these users are important. Some of the suggestions in this draft would help some of these users as well as SRLs (e.g., a better website, better signage, easier access to information, etc.), but the focus on SRLs means that matters of highest priority for some of these users get no mention.

Here's an example: For attorneys, especially those handling more complex cases, among the highest priorities is getting a reasonably prompt hearing on a motion, and then getting a legally correct and reasonably prompt decision. Nothing in this draft would address that priority. Completion of the ongoing effort toward digital case flow – which this draft does not address – would serve this priority, as would improvements in internal resources such as Courtyard and legal research tools and staff, as well as full clerk's office staffing and training for clerk's office staff – also topics this draft does not address.

Another high priority for attorneys in all types of cases is having firm and reasonably prompt trial dates. That depends on improvements in staffing, courthouse facilities, data management, and other areas – again, topics this draft does not address. Allocating resources to any one of these areas means fewer resources for other areas.

We agree with this assessment, and do not suggest that this report is a comprehensive overview of the Trial Court (although we now do discuss some of what was missing in the earlier draft this judge reviewed). We focus on SRLs because in most cases they need the most help and are at the greatest disadvantage. We realize that there are many different perspectives, and that experiences among court users vary dramatically. What we have done is to highlight the situation of SRLs and collect a variety of information from both attorneys and court employees about how the court currently is functioning and what it should do to improve. The difficult question of how to allocate limited resources is beyond the scope of this report, but we recognize the difficulties and the trade-offs that must occur. The staff of the Court Service Centers should be increased, we argue, and information and greeting desks set up in the large courthouses, but some courthouses have inadequate bandwidth, no WiFi, and leaking roofs. Perhaps even more critically, there are backlogs of some types of cases that go back years. A new case management system and digital case flow (the eCourts initiative) is now in the works, although a completely digital court system will take many years to achieve. There are many needs, and everything can't be addressed immediately.

Some of our recommendations, however, cost little and may save money and court resources over the long term. Improving court forms will not only reduce SRLs' stress and frustration, but should save clerks time by reducing errors and thus the need to both respond to questions and also check the same form multiple times. The same is true for the Court Service Centers, as they reduce the workload for clerks. An information and greeting desk immediately past security requires minimal additional staff if it is set up for only the first two hours of the day. In fact, as the BMC desk in the Brooke courthouse lobby demonstrated, clerks can bring their work with them and not only direct people, but carry out their normal duties.

Improved online information and capabilities, the original stimulus for this report, will also help many people, although not all, as we argue in the beginning of this report. It will take time and effort to improve the court's online presence, and there should be dedicated groups working on this in collaboration with the subject matter experts in each court department. There are now extensive guidelines and information about how to design websites, write in plain language, and go through an iterative process to make

sure the end product meets the needs of the users and is easy to use. We provide some information and examples in [Appendix 5](#), but the main point here should be clear: the court needs to hire user experience researchers, and needs to include time in development plans for an iterative approach that includes a cycle of design and user testing.

References

Although we focused on collecting primary source material, we discovered several reports that we found very interesting and useful. In most cases, their findings and ours are in complete agreement. We highly recommend the following reports:

Creating a More Equitable System: Lessons Learned During the COVID-19

Pandemic (2022). Massachusetts Access to Justice Commission, and referred to in this report as the A2J Report. It is available at <https://massa2j.org/wp-content/uploads/2022/10/MA-ATJ-Commission-Report-on-Lessons-Learned-during-the-Pandemic.pdf>. The commission's website is here: <https://massa2j.org/>.

How Courts Embraced Technology, met the Pandemic Challenge, and

Revolutionized Their Operations (2021). The Pew Charitable Trusts. Available at <https://www.pewtrusts.org/en/research-and-analysis/reports/2021/12/how-courts-embraced-technology-met-the-pandemic-challenge-and-revolutionized-their-operation>. This is an excellent report. In particular, take a look at *Figure 1: Digital Tools Can Help Courts Streamline Processes, Litigants Prepare for and Resolve Cases*, which shows the steps of a civil case and the technologies that can help at each step.

Massachusetts Trial Court Strategic Plan 2023-2025. September 1, 2022. Available: <https://www.mass.gov/doc/massachusetts-trial-court-strategic-plan-2023-2025/download>. There is an appendix with milestones for each department and organization within the Trial Court, but we don't know whether this is publicly available.

McClymont, M., E. (2019). Nonlawyer Navigators in State Courts: An Emerging Consensus. The Justice Lab at Georgetown Law Center. Available at <https://www.srln.org/node/1403/reportnonlawyer-navigators-state-courts-emerging-consensus-mcclymont-2019>. From the Executive Summary: "This survey of the current national landscape identified and analyzed 23 programs in 15 states and the District of Columbia." The survey included the Court Service Centers in Massachusetts, as the volunteers who work there meet the study's definition of nonlawyer navigators.

Positive Change: How the Pandemic Changed Pro Bono and What We Should Keep (2022). The Association of Pro Bono Counsel. Available at

<https://apbco.org/apbco-publishes-positive-change-how-the-pandemic-changed-pro-bono-and-what-we-should-keep/>

Report of the Online Dispute Resolution Committee (July 2021). Massachusetts

Access to Justice Commission. Available at

<https://massa2j.org/wp-content/uploads/2021/08/FINAL-Report-of-the-Online-Dispute-Resolution-Committee-MA-A2J-Commission-July-2021-7.28.21.pdf>

The Landscape of Civil Litigation in State Courts (2015). Civil Justice Initiative,

National Center for State Courts (NCSC). Available at

https://www.ncsc.org/_data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf

Turning on the Lights: How the Massachusetts Trial Court Could Deploy a Virtual Court Service Center to Assist Self-Represented Litigants (2019).

Massachusetts Appleseed Center for Law & Justice, in partnership with the Massachusetts Trial Court. Available at

<https://massappleseed.org/reports/turning-on-the-lights/> For this report, Massachusetts Appleseed, in collaboration with the Trial Court, completed extensive research on how to assist SRLs using a Virtual Court Service Center (VCSC). They reviewed “...online self-help tools; analyzed data from all six Court Service Centers; and cataloged other states’ self-help resources” (p. 7).

You’re Still Muted: Access to Justice Barriers in Massachusetts’ Virtual Small Claims Court (2022). Available at

<https://massappleseed.org/reports/youre-still-muted/>

Appendix 1: eFiling

It's Fantastic

Most of those who can eFile love it, despite its problems.

"E-filing – yes! Please expand as much as possible. E-filing is fantastic...There should be no reason why I need to FedEx or walk it through a court to file something."

"eFiling is 'essential' and works terrifically online."

Complaints and frustrations

A family law/divorce attorney said:

"The system is a little clumsy. You need to check the right box, categorize the right way, upload documents in the right order or else they will be rejected, and it may take a week or two to find out that something was missing or mislabeled or out of order; but if you file in person and there's a mistake, the clerk would just say to fill this out, go to end of line and come back. Now, with eFiling, there is just a rejection and no explanation."

"Just because you've uploaded something doesn't mean the judge can see it. A clerk must take it and put it into the online docket system and then a judge can look at it instead of a paper file. One of the requirements in the rules when you file a motion is that you must file a proposed order. But when you eFile you will be rejected if you put in a proposed order."

"They tacked on fees for filing a divorce that you don't pay if you mail it off. Now there is an addition of \$28.99 as the eFiling fee and payment service fee. This is annoying. We're doing the work, we've named the documents, but yet we have to pay more when eFiling than just mailing it in."

"In the Suffolk court my office doesn't efile right now, because they don't docket it quickly enough, there's such a backlog that it's not an effective way to maybe you could start a case that way ... if you want something seen by the judge for a hearing you don't efile it anymore, because they just won't get it in time."

One attorney complained about being unable to submit exhibits when submitting a motion online. "I don't know why, or whether there's any justifiable reason for that."

Difficulty Filing

"I would say the biggest frustration that I have with the trial court right now is the difficulty in filing things. During the pandemic for a short while we were able to send motions and requests via email, but then that abruptly stopped once the Court started coming back up again, so they will only accept things via fax and when ... you're working at home, no one has a fax machine at home."

– A Criminal Defense Attorney

eFiling Can Create Additional Work

eFiling can create additional work for clerks and attorneys, especially when attorneys feel they need to file both in person and electronically to make sure their filing is officially accepted in a timely manner. When attorneys aren't clear of the status of a filing or case, they often inundate clerks with questions and requests. Here are some examples:

From a clerk in one of the Probate and Family Courts:

"Attorneys jam things up," he told us. "They jam up eFiling. First they eFile, but then they call, and then they'll email, and then they'll go to the virtual registry. Did you see this, I want my date. A lot of our work and a lot of our followup work is with attorneys rushing or doing things wrong or wanting things right away."

From an experienced family law practitioner who works statewide in many different courts: She asked a clerk, "Should I eFile?" and was told don't do it, so she had the files couriered over to the courthouse (that court was not accepting email). It was entered into the docket the next day. She had also eFiled to make sure it gets into the system. Four weeks later her eFiling was rejected.

"When you feel like you don't know exactly what the rules are supposed to be and that you're 100% filed then you double down, so I just created more work for somebody else. But then what was ridiculous was the eFiling got rejected and I emailed the Clerk, and this is again more work for her, she didn't have to respond to this email, but she did, more work for her, and I said my eFile got rejected but they made it in. Like, you're not taking them out of the docket now, right? Everything's in, yep, she said, everything I filed, don't worry about it...eFile was a big pain in the neck."

From an experienced divorce attorney:

An attorney told us that each judge has a clerk, and each clerk is getting three copies of everything. She said she will send it to the clerk. If she doesn't hear back then she will send it again.

One court employee spoke to us at length about eFiling:

Now, so what happens is on our end, we have to accept the eFiling and then we have to create the files so it's like double the work. We accept it, create the paper and put it in the file.... Attorneys, all the time, efile anything that is time sensitive and sometimes you're looking at a whole slew of issues that can occur, right. EFile has to transmit to MassCourts, sometimes it doesn't happen timely, they say the lag time is usually an hour. It can be anywhere from an hour to three hours to a full day till the next day. If eFile is down it won't transmit properly in time and then there's just the issue of staffing, right. Different offices do things differently.... So say like there's an extensive motion, right, like motion to extend parenting time by the plaintiffs. It just goes in as motion, so we have to find it, go into it, edit the motion say someone's filing, you know proposed order, memo you have to go in and edit what it is because they'll just go in generically motion complaint, you know you have to go and plaintiffs complaint for modification to modify child support. So there's a lot of follow up with eFile.

You may not even get the money right. The file system is right, but you add something that isn't accepted within 10 days it kicks the money back, you have to reject it even if everything is right. If you [the clerk] don't get to it in time it is kicked back out.

We just did comp time for like 6 to 8 employees, just to eFile and we knocked eFiling down from 374 eFiles to about 165. This was two weeks ago. We're back up to 500 right now.

Interface Issues

One attorney told us that it's a little clunky as a system. While using it, this attorney sometimes texts colleagues, writing, "Why am I stuck in this stupid thing, why won't it let me do x?"

Another attorney told us that as a concept eFiling is great, although he finds the Tyler platform "embarrassing" in that, while it works, it is not up to current standards and looks like it was designed in 1998.

Serving Others

An attorney told us that,

...it would also be nice to be able to serve the prosecutor at the same time, if we're going to start talking about features, so one of the things that happens is when I as a Defense attorney file something I need to serve, I need to give notice to any other interested party. In my case it's the prosecutor, sometimes it might be a probation officer.

eFiling Statistics

JISD provided eFiling data to us for the 15 months, from Jan. 1, 2021 - April 11, 2022. Practically all eFilings are by attorneys (which is not surprising):

- 95% are from attorneys
- 5% are from SRLs (we assume these are from SRLs; all we know for sure is that they did not use an attorney number when eFiling)

Looking at just the SRL eFilings, 97% came from small claims. Note that only small claims has a Guide and File option. Is this why there are so many eFilings for small claims? To find out, we could examine how many of the SRL small claim eFilings come from Guide and File and how many come from the regular Tyler eFile system, but we're not sure whether this information is currently available.

Practically all SRL eFilings come from small claims, but where are these small claims from? There are large differences among the courts in the number of small claims eFilings:

- 88.7% come from District Court small claims
- 9.7% come from BMC small claims
- 1.6% come from Housing Court small claims

This makes sense because it matches the total number of filings in these court departments:

Small Claims	eFiling	Total filings
District	4,998 (88.7%)	62,004 (89.4%)
BMC	545 (9.7%)	6,696 (9.7%)
Housing	92 (1.6%)	631 (.9%)

Data on total filings comes from one of the online dashboards maintained by the Research and Planning Group. The number of total filings is from FY2021, while the eFiling data is from a 15-month period between Jan. 1, 2021 and April 11, 2022.

Appendix 2: Additional Information and Representative Quotations

Access to Justice, Fairness

From an attorney who defends low-income tenants in eviction proceedings in Housing Court:

The Court has this perceived mentality, which is somewhat true, that they have such a high volume of cases that it's like a machine; they're churning them through and they don't really care what the outcome is because they have to process, process, process, default, default, default. They must love defaults – they don't have to do anything. They don't have to have a trial. They love things that settle in mediation because then the Court doesn't have to have a hearing or a trial. They love that.

The Court needs to just restructure itself to be more sensitive to what's happening. It's not a factory line, it's not like a production line here churning out eviction cases.

An attorney:

Well, one fundamental flaw that I see is how the power structure is when it comes to criminal cases and the person with the greatest power in the courtroom is the district attorney's office. And they have the least experienced attorneys there unfortunately. And oftentimes they have between one to three years experience as opposed to everybody else there but they have the sole discretion as to whether or not to choose to prosecute a case. And we have so many minimum mandatory sentences or charges that have to be broken down to avoid immigration consequences.

An attorney: Her clients may have been victims of horrific trauma and so aren't in good state for processing new information.

The barriers that they face to justice are really significant because they are already coming from a place of feeling powerless. So ... falling into red tape or the disgruntled court person ... One of the nastier parts of interfacing with the court can sometimes be about court personnel personalities. I have a great amount of sympathy for government employees (I was one myself) and the amount of work that goes in ... but it's hard for our clients 'cause let's just say they can't get out of work until a

particular time so then they go at 3:30 before the court closes and has this particular question and then are met with somebody who doesn't speak Portuguese and also somebody who appears to be very upset or gruff. It's challenging.

A probation officer: If a probationer wants to travel out of state they need to fill out a travel permit. If a probationer has a computer and a printer, he or she can do this all remotely. He said, "It's not fair, when lower income people don't have printers. That's an access to justice issue." He then notes that we don't have public transportation to their courthouse. So if someone is lower income, they can't print it out, so I can't send it to them, they actually have to get a cab and come down here, find a ride somehow, so a lot of people don't want to travel [out of state] because of that.

An attorney: She mentions an access to justice issue, that she would like to see daycare at the courts. You get time off for jury duty. This will never happen, but why not get time off for going to court?

An attorney: He notes that he has practiced in bankruptcy, federal district court, superior court and in those settings the assumption that both sides have legal representation holds true and things function well because the system is designed on that assumption. But in what he calls community courts (like district and municipal courts):

I think you need to fundamentally rethink what the purpose of a courthouse is, because they're serving two different kinds of people coming in the door.

An attorney: There is a double standard between attorneys and self-represented litigants when it comes to accommodating illness or disability – attorneys can just call the clerk and request a change in date and be believed, but SRLs won't be allowed to.

Changes to Court Protocols

An attorney: Standing orders – SRLs know nothing about them; even lawyers are confused by them due to inconsistencies. She would like attorneys and organizations like hers to be involved in discussions about changes to court protocol. And she would like court staff ("the pawns on the chess board"), not just court management, to participate as well, because they often have a lot of baggage that comes out when they deal with court users.

I think that there's a real opportunity for collaboration, or mind-shifting, so it's not just about plugging in the gaps of what's missing online and access to justice and language, but there's gotta be a mentality shift: What did we learn in the pandemic that works, and being able to reach out and have empathy and compassion for all the work that we're doing and to start that

baseline of trust, I think, is more important to the success of the court's operation. And that it's very clear where we go if we feel like, this clerk was out of line here. Yeah, I came at 3:15 but I had a valid point. What do I do now?

She says there are places to file discrimination or assault complaints where there are clear violations of rights, but “what about the other stuff?”

I think that having that accountability, and knowing that you're seen and that your job matters and that it's important that you respond with a certain kind of professionalism is critical.

The Trial Court Versus the Appellate Courts

Here's a description of what it's like to practice in the Appeals Court compared to the Trial Court.

A court employee:

It's a very different experience for our judges [in the Appeals Court], because our judges are given their case list two to three weeks in advance of a sitting. The secretary creates folders. Like my office will say, Okay, these are the six cases being heard on June 3, and the judges and the secretary's got those and then the secretaries will – for each judge – sort the cases, they go into full iPad folders and move them over to the iPad and then the judge can access them on either the desktop and or their iPad. Most of them bring their iPads to the bench. We do not have any judges that are using a desktop or laptop in the courtroom and part of that is the visual – like you know they'd be looking over, they're already higher up than the attorneys, they'll be looking [down] and you know it's kind of awkward placement, but they can do it a bit easier with the iPads and some of them do have stands, but the iPads seem smaller.

In the Trial Court, “with the volume, like in a motion session, maybe not so much during a trial, the clerk or a clerk needs to be opening up the documents, they are pulling the documents...the judge's screen, the judge's monitor would be tethered to my [the clerk's] monitor and the judge, somehow, they need to open up a document when the next case is called up and the judge needs to be able to scroll through it, but they need to work in tandem with the clerk because otherwise that's a lot on the judge to go into the DMS and open up a document.

eSignatures

One legal aid attorney reported that getting approval to represent a client takes longer when the client is remote:

The problem isn't that it's not being accepted, the problem is how long it takes to get a client to sign something. I get the sense that most people are doing this on their smartphone. Which works really well, it's just a lot of people aren't totally technologically savvy. They may sign their name with their finger, which is good, but then they forget to click submit right, right and we don't get it. It's like that type of little thing that I never thought of. It takes a lot of time.

Appendix 3: SRL Stories

Courthouse Stories from Self-Represented Litigants

We collected a variety of stories and recommendations from SRLs. Here are two examples from talking with SRLs after they had received assistance from a Court Service Center:

Legal Mumbo Jumbo

A 38 year old woman and her boyfriend were concerned about visitation rights and picked up paperwork at the courthouse in person. The woman said they were overwhelmed by the paperwork and needed to know the right legal wording to enter. They're afraid of saying the wrong thing and losing visitation rights as a consequence. She calls it "legal mumbo-jumbo." This illustrates clearly how stressful dealing with the legal system can be, and how confusing forms without clear instructions can aggravate an already stressful situation.

Seven Visits to the Courthouse

One of the few SRLs we interviewed who used Mass.gov and MassCourts was a 70 year old mother of a disabled son who was trying to have a guardian removed. She has had four meetings with Court Service Center staff, three virtually and one in person, and is now finally at the end of the process, after six months.

It was easy to find information about guardianship on Mass.gov, but it was not specific enough for her situation. She has been to the courthouse seven times because she needed a new form or something was wrong each time. Every time I had to get another form or provide another piece of information, she said. "I have one bit of advice that would really make the process easier" and that is to "get every single form that would apply." What she wants is to go into a courthouse and be given a whole packet of forms with all the information that she needs. Also, it would have been really helpful if there had been an instruction sheet telling her how to complete each form, or instructions right on the forms.

This vignette illustrates a number of points:

- Legal processes can be very complex and take many months to resolve
- This woman needed much more information than was provided on Mass.gov
- Providing all the forms required for a type of legal proceeding can be very useful
- Although not clear from the description above, this woman was very happy with the help that she had received over the months from the Court Service Center

Observations from the Lobby of the Gardner District Court

The first author talked to several people in the lobby who were waiting for the courtroom to open at the Gardner District Court.

Two people didn't know they had an outstanding arrest warrant

One man was stopped for a driving violation/check. He was arrested on Saturday, spent three hours in jail, posted \$40 bail, and was told to be in court on Monday morning, where I talked with him. A warrant was for a driving violation. He had moved and didn't get the court summons. He paid \$100 and everything was dropped. There was an almost identical situation for a woman I also talked with in the lobby.

Common problem: People move, and notices and summons often don't reach them.

This is why we recommend trying harder to keep up-to-date information on anyone who has interactions with the court system.

eReminder

I asked another woman if she had any recommendations for improvements: "No, they do the best they can. They have eReminder, ePay. eReminder is automatic, it's great, you get a text the day before – there's no excuse to miss a court day."

Appendix 4: The Court's Strategic Plan and KPIs

The Trial Court recently released its Strategic Plan 2023-2025.⁹² One of the top two strategic priorities is “Service with Dignity,” which includes “enhancing how all court and probation users experience the court system” (p. 7). Unfortunately, there is less explicit focus on the user experience in this strategic plan compared to the last one, and even the last strategic plan was not very specific in its key performance indicators. We briefly discuss the last strategic plan below and present examples of how much more specific user experience (UX) performance measures could be developed. If the court had a dedicated UX group, it could track several dozen UX performance measures and plot their change over time.

“Improve the User Experience” was one of five umbrella strategies in the court’s last Strategic Plan 3.0. It included this explanation: “We aim to improve the experience of working through the court system for all users, including litigants, attorneys, prosecutors, jurors, law enforcement officers, and victims. Timeliness of cases, ease of use and access to the court system, and procedural fairness all fall under this strategy.”⁹³ This, in our opinion, is an excellent overall strategy.

Target KPIs (Key Performance Indicators) for User Experience (as part of Strategic Plan 3.0) include

- “% of cases disposed within time standards”
- “% of cases pending beyond time standards”
- “E-filings as % of filings by Dept.”

Comments: These KPIs are good but don’t directly address most aspects of user experience. Note that eFilings as a percentage of filings by departments have more to do with attorneys than pro se litigants

KPIs for Monitoring

- “User satisfaction in in-person A&F survey”

Comments: The Access and Fairness Survey (A&F Survey) is excellent, but is administered too infrequently to be effective in monitoring user satisfaction. It has only been conducted twice, in 2008 and 2017. An updated A&F survey is planned for deployment in 2023.

⁹² <https://www.mass.gov/doc/massachusetts-trial-court-strategic-plan-2023-2025/download>

⁹³ You can download it here: [Strategic Plan 3.0](#)

Specific UX KPIs

There are many types of specific UX KPIs that could be developed. For example:

Within a court

- 80% of litigants entering one of the multi-court complexes for the first time can find the desired office or court without assistance.
- 90% of people using one of the digital displays (at the Brooke courthouse, for example) to locate the courtroom where they must report are successful.

Using Online Resources

- Using Mass.gov, 75% of low-income litigants are successful in locating and downloading the appropriate form to request child support.
- Over 90% of people who start the process of small claims e-filing complete the process successfully (this can be based on web analytics, validated via remote online usability testing).

Appendix 5: User Experience Information and Usability Problems

The Six Levels of UX Maturity

Many UX researchers talk about the level of UX maturity in a company or organization. The Nielsen Norman Group describes six stages:

1. **“Absent:** UX is ignored or nonexistent.
2. **Limited:** UX work is rare, done haphazardly, and lacking importance.
3. **Emergent:** The UX work is functional and promising but done inconsistently and inefficiently.
4. **Structured:** The organization has semisystematic UX-related methodology that is widespread, but with varying degrees of effectiveness and efficiency.
5. **Integrated:** UX work is comprehensive, effective, and pervasive.
6. **User-driven:** Dedication to UX at all levels leads to deep insights and exceptional user-centered–design outcomes.”

(<https://www.nngroup.com/articles/ux-maturity-model/>)

In our opinion, the MA court system as a whole is at **Stage 2, Limited**. Dedicated court UX researchers will help move the court to more advanced stages.

I encourage readers of this report to take the UX Maturity Quiz at <https://forms.nngroup.com/s3/Maturity-Quiz>.

As mentioned above, we strongly recommend that the Trial Court establish a small team of user experience researchers. After completing the research needed to support the Access to Justice Portal, this team could continue to work on improving the user experience in the other areas listed above.

Plain Language & Readability Formulas

This section is taken from [A Guide for Field Testing Court Forms & Self-Help Material](#) that the first author wrote in 2021.

Plain Language

Information and guidelines on plain language can now be found in multiple places, including the federal government, the National Center for State Courts, and the Self-Represented Litigation Network. See, for example, the following sites:

- <https://www.plainlanguage.gov/>
 - <https://www.plainlanguage.gov/resources/content-types/legal-profession/>
- <https://www.ncsc.org/information-and-resources/trending-topics/trending-topics-lending-pg/what-is-plain-language-in-the-courts>
- <https://www.srln.org/node/150/srln-brief-plain-language-resources-100-access-srln-2015>
- <https://www.archives.gov/federal-register/write/legal-docs>
 - <https://www.archives.gov/federal-register/write/legal-docs/clear-writing.html>

In addition, Clarity is directly relevant: “Clarity is the largest international plain language organization. It gathers professionals who are committed to promoting plain legal language and legal design.” Their website has a lot of useful information:

<https://www.clarity-international.org/>

Redish (2010) provides an excellent history on evaluating the usability of documents, and also discusses the intertwined history of technical communicators and usability specialists. She also makes the important point that plain language needs to be about much more than short sentences and small words, but rather, “...plain language as UX [user experience] where people can (1) find what they need, (2) understand what they find, and (3) act appropriately on that understanding.”

An example

The following is the first FAQ about a Servicemembers case that we were given years ago. It is an example of how confusing and difficult to understand some legal explanations can be.

1. What is a “Servicemembers” case?

“Under the federal law known as the Servicemembers Civil Relief Act (SCRA), a mortgage holder (also called a “mortgagee,” usually a bank) cannot validly foreclose on a mortgage taken out before a servicemember’s military service began, if the foreclosure is made during or within one year after the period of military service, unless a court issues an order allowing the foreclosure to proceed. In order to comply with this federal law, the bank (or other holder of a mortgage, trust deed, or similar security) files a “Servicemembers” case in state court against all owners of a property. The Servicemembers case is not a foreclosure of the property itself. In a Servicemembers case the only issue to be decided by the court is whether the owners of the mortgaged property are entitled to the benefits of the SCRA.”

The first sentence of this example provides too much information, has too many conditional clauses (if..., unless...) and at over 60 words is too long. For most people it will probably require multiple rereadings.

In some initial testing the first author carried out, the participant failed to grasp important elements of this answer. Although the participant was highly educated and had some experience with legal forms and language, he actually became agitated reading the first paragraph and used a curse word to express his frustration. I am happy to report that the current version on Mass.gov is much improved:

<https://www.mass.gov/info-details/frequently-asked-questions-about-servicemembers-cases-in-the-land-court#1.-what-is-a-%E2%80%9Cservicemembers%E2%80%9D-case>

Readability Formulas

I advise against using readability formulas to calculate reading grade level. As Jarrett & Redish (2019) write, “Readability formulas are easy to use and give you a number. This combination makes them seductive. But a number isn’t useful if it isn’t reliable, valid, or helpful.” In fact, readability formulas are not reliable, they are not valid, and they are not helpful. The Massachusetts Trial Court Readability Guidelines are excellent, except for the first, which recommends using Word or another tool to determine reading level, and to aim for fifth grade literacy or lower. As Jarrett & Reddish point out, “*Grade level* is a meaningless concept when writing for adults. What we really care about -- and what modern literacy assessments look for -- is *functional literacy*. Can adults understand what they are reading so they can do the tasks they need to do to find and keep jobs, take care of themselves and their families, and so on?” I would add, of course, can they understand the court’s self-help material and successfully fill out legal forms without assistance?

Lewis (2006) found that common readability measures did not correlate significantly with the rated clarity of hardware and software documentation or measures of user satisfaction. The Cloudiness Count, however, did correlate significantly with these measures. The Cloudiness Count is based on the number of verbs in passive voice plus the number of “empty” words.

Jarrett, C., & Reddish, J. (2019). Readability Formulas: 7 Reasons to Avoid Them and What to Do Instead. *UXmatters*,
<https://www.uxmatters.com/mt/archives/2019/07/readability-formulas-7-reasons-to-a-void-them-and-what-to-do-instead.php>

Lewis, J. R. (2006). Effectiveness of Various Automated Readability Measures for the Competitive Evaluation of User Documentation. *Proceedings of the Human Factors and Ergonomics Society*, 624-628.

Reddish, J. (2010). Technical Communication and Usability: Intertwined Strands and Mutual Influences. *IEEE Transactions on Professional Communication*, 53 (3), 191-201.

Mass.gov

There is a tremendous amount of information on Mass.gov, and much of it is written well and is very helpful. In many cases, however, we feel that the organization could be improved, more detailed information could be provided, and there is too much wasted space given the way links are often put in large rectangular boxes. There is also too much important information below the fold (i.e., it is visible only after scrolling down) rather than above it (e.g., <https://www.mass.gov/orgs/massachusetts-court-system>). We also argued above that it would help if the Trial Court has its own website separate from Mass.gov. This would help with navigation, irrelevant non-judicial links and information would not interfere with a user's tasks, and there could be a more conventional home page and site structure. Mass.gov has improved dramatically over the last few years, and we don't know how many of the negative comments we received came from people who had not used it recently. Our opinions here are certainly not universally accepted, and the Web Management team for the judicial sections of Mass.gov wrote us the following after reading an earlier version of this report:

We have reviewed the original and updated drafts of the report. We see value in many of the critiques related to Mass.gov that are included in this report and believe there is always work that can be done to improve the website.

However, we suggest that this is a content challenge and a web team challenge, not a problem with the Mass.gov platform.

We believe the improvements fall on the shoulders of the web team, the court departments, and the resources necessary to address the challenges listed in the report. If collectively we can work to provide better content, more online services, better forms, expanded multilingual content, and navigational improvements, this would provide a vastly improved experience and better access to justice for our users.

Based on this report, we are eager to receive feedback from self-represented litigants who are new to the site or are recent users of Mass.gov to get more up-to-date, actionable information on the Mass.gov experience.

Tracking User Experience Problems

User experience problems, “bugs,” and feature requests should be tracked just like any other system enhancements, new features, or software bugs. The best system to use is almost always the one you are already using for other purposes. Nothing new needs to be purchased or learned, and user experience problems and enhancements can be tracked as part of existing project management procedures. We heard that the Trial Court has an enterprise license for Smartsheet and will be moving to Microsoft 365. There are dozens of other possible choices if something new is desired. Jira, for example, is often used in software development and can also be used to track and manage feature requests; it also has the ability to let users vote on new requests. User experience practitioners have also told us they found Airtable and Asana very useful.

A Sample of UX Problems We Observed

ePay

ePay is available for SRLs, but is extremely difficult to use. Consider this scenario:

1. A person has to pay a probation fee, victim witness fee, or other criminal assessment and sees on Mass.gov that ePay is available (<https://www.mass.gov/epay-in-the-courts>).
2. The person notices the prominent link, “ePay your fees online via MassCourts” and takes it.
3. The person is directed to the MassCourts home page. This is the general welcome page and there is no information on it about how to pay fees. What you see is the ability to search public records, not the ability to ePay <https://www.masscourts.org/eservices/home.page.3>.
4. The person returns to the previous page and sees that there is another link, “How to pay your criminal case fees online.” The person takes this link and arrives at <https://www.mass.gov/how-to/pay-criminal-case-fees-online-with-epay>
5. This page provides some useful information. You’ll need a valid Master or Visa credit card account and your case number. But it doesn’t provide any visible information about how to use MassCourts.
6. However, the person continues to look down this page and notices that at the bottom, under Downloads, is an option to get “Instructions for using ePay.” The person downloads this file and finally finds detailed instructions on how to use MassCourts to pay fees (<https://www.mass.gov/doc/instructions-for-using-epay/download>).
7. The person then realizes that the initial information on Mass.gov was incorrect, because it said that a valid Master of Visa credit card was required, but the detailed instructions indicate that you can pay from your PayPal account as well.

On the page in step 4, if a user clicks on “Online” under “How to Pay” there are detailed steps, although not as detailed as the PDF. The problem with this page is that the instructions are not immediately visible on the page but are hidden behind a button that is not an obvious call to action.

There is a Mass.gov page on “Instructions for using MassCourts online”:

<https://www.mass.gov/lists/instructions-for-using-masscourts-online>. There was a link to this page on the original page in step 1 above, but if you want to ePay and the first link is to ePay, most people will probably take that link. In a well-designed system you won’t have to go to a separate page and download detailed instructions. If detailed instructions are required, they should be available on a Mass.gov webpage and not require a separate download. See the reasons why the use of PDFs should be limited in the section above called [A Note about PDFs and Word Documents](#).

MassCourts.org Home Page

Below is a screenshot of the MassCourts.org home page

(<https://www.masscourts.org/eservices/home.page.3>). Clearly it is not very welcoming or intuitive for first-time users. It is hard to even know what to do on the page to proceed.

There is a large block of text with over 270 words that provides basically no information about what the site is for or how to use it apart from the fact that it contains case information. Most of the text is legal information about data quality, a prohibition against data harvesting, and then a warning that the information is public and to be careful in how you interpret the information you find. On other sites, this is typically the type of information available via a link in a page footer, not the main content on a homepage.

Massachusetts Trial Court Electronic Case Access

Home Log on

Links

- [Courthouse Locator](#)
- [Detailed Instructions](#)
- [Email a Question](#)
- [Request for Correction](#)
- [Land Court Reports](#)

Important Notice about eAccess

The case information contained within this web site is generated from computerized records maintained by the *Massachusetts Trial Court* and is deemed to be public information. While every effort is made to assure the data is accurate and current, it must be accepted and used by the recipient with the understanding that no warranties, expressed or implied, concerning the accuracy, reliability or suitability of this data have been made. The *Trial Court*, and the developers of this web site assume no liability whatsoever associated with the use or misuse of the data contained herein. **The case information from this web site is not the official record of the *Trial Court*.**

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CAUTION to users: This site provides remote access to basic case information. It can be viewed by any member of the public, parties to cases, researchers, journalists, etc. It allows court users to see the status of a case and to report any potential errors to the court. **Be careful** in your use and interpretation of the case and party information. Many people and entities have the same or similar names or titles, and the case docket does not always contain enough information to accurately identify a specific individual. Misunderstanding, misinterpretation or misidentifying a party or case information can lead to unintended harmful outcomes to innocent people. Misuse of public information with a discriminatory outcome can be actionable. (803 CMR 2.00 and 5.00)

Internet Public Access

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CourtView Justice Solutions Inc. an equivalent company, Copyright 2022 1.29.05 WCAG Compliance

Court Forms

We did not study or evaluate court forms in this project, but it is worth noting some examples from our past work. If you want to annul your marriage you need to fill out a Complaint for Annulment.⁹⁴ After entering in the address of the Plaintiff and the Defendant, the next section asks you to, “Please check and complete ONLY ONE of the following sections. [The numbers below are checkboxes on the form.]

1. On _____ (date) the parties went through a marriage ceremony at _____ (City/Town), Massachusetts
2. On _____ (date) the parties went through a marriage ceremony at _____ (City/Town), _____ (State), at which time the plaintiff was domiciled in the Commonwealth of Massachusetts and he/she is domiciled in the Commonwealth of Massachusetts at the commencement of this action.

⁹⁴ <https://courtforms.jud.state.ma.us/publicforms/PFC0011>

3. On _____ (date) the parties went through a marriage ceremony at _____ (City/Town), _____ (State), and the plaintiff has resided in the Commonwealth of Massachusetts for five (5) years immediately preceding the commencement of this action.

These three options do not seem to be logically distinct. Can “Massachusetts” be filled in as the State in the second or third option? Can’t the third option be a subset of the second? When we tested this form, neither the participants nor I had any idea about how to explain the distinctions between the three options. Upon further reflection, I think this is the intent: The second option is for a marriage in another state, and while at the time of the marriage and when this request for an annulment was made the plaintiff lived in MA. The third option covers the situation in which the marriage was in another state and took place while the plaintiff did not live in Massachusetts, but he or she has now lived in Massachusetts for five years. I’m not sure this interpretation is correct, but it makes sense, although it is impossible to determine definitively from the description of the three options.

Examples like this convinced us that in most cases an “expert review” should be performed before any usability testing, as it’s much quicker and many of the problems are so obvious. There are typically no instructions on how to actually fill out the form, the layout of many forms is confusing, plain language is not used, and many technical terms are left undefined. Consider the Complaint for Custody-Support-Parenting Time,⁹⁵ a common form in the Probate and Family Court. In the first item there are multiple ways to identify the plaintiff, but at first glance they are very confusing. Two options include the mother or father of a child born out of wedlock, and in the last option the plaintiff is either “Department of Children and Families” or “Department of Revenue” or “an agency licensed under G. L. c.28A.” But the section starts out with the plaintiff having to fill in an address, indicating the plaintiff is a person, so how can the plaintiff be a department or agency?

Forms: Examples and Guidelines

Although not from a judicial domain, and not even from the U.S., consider the redesign of a speeding notice or a penalty charge notice by the Simplification Centre in the United Kingdom::

<https://www.simplificationcentre.org.uk/simple-actions/simple-action-reports>

We suggest looking at *Simple Action 5: Speeding Notice* first, as it’s shorter, and if you want more, look at *Simple Action 1: Penalty Charge Notice*. The differences between the Before and After versions are quite dramatic.

⁹⁵ <https://www.mass.gov/doc/complaint-for-custody-support-parenting-time-cjd-109/download>

The Trial Court has worked recently with the National Center for State Courts (NCSC) to revise some of the most frequently used forms in Massachusetts. During the summer of 2022, the NCSC sponsored a number of webinars on court forms. (see <https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/form-s-camp>). Under “Form Design” at the bottom of this page is a section on “Using design to improve court forms with Margaret Hagan,” where you can access the presentation slides and a recording of the webinar, which we strongly recommend.⁹⁶

Improving forms takes time and an iterative approach, but is not difficult. Look at the material available on the NCSC website, at the Simplification Centre, and in one of the guides on writing in Plain Language.⁹⁷ Then follow an iterative approach in which you go through cycles of redesigning and testing, and you will vastly improve forms.⁹⁸

What the Chatbot Says

We briefly discuss chatbots in the section above on [New Capabilities that are Potentially Useful](#). To get an idea of how far these programs have come in recent years, consider the following question I asked Open AI’s ChatGPT⁹⁹ and its answer: “What should the MA Trial Court do to improve the user experience of self-represented litigants?” The answer:

It is difficult for me to provide specific recommendations for improving the user experience of self-represented litigants in the Massachusetts Trial Court without more information. In general, however, there are several steps that courts can take to make the legal system more accessible to self-represented litigants. These include providing clear and easily accessible information about court procedures and forms, offering legal assistance or advice through self-help centers or other resources, and ensuring that court staff are trained to provide helpful and respectful assistance to self-represented litigants. Additionally, the court could consider implementing technology-based solutions, such as online forms

⁹⁶ The NCSC will now, “provide intensive training and technical assistance to help courts revise **one form or a small set of forms** to improve plain language and readability” (from January to March, 2023: <https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/winter-camp>)

⁹⁷ Much of the work on web forms is also relevant to court forms, both paper and online. For example, here are two good books: *Forms that Work* by Jarrett and Gaffney, and *Web Form Design* by Wroblewski.

⁹⁸ We provide detailed instructions in *A Guide for Field Testing Court Forms & Self-Help Material*, available at https://docs.google.com/document/d/1QgOIJ3iF4mPLaDeRSF-e3crQ7-gOjRtCBjyG9S0XqvM/edit?usp=s_haring

⁹⁹ <https://openai.com/blog/chatgpt/>

or virtual courtrooms, to make it easier for self-represented litigants to navigate the legal system.

I then asked, “What can the MA Trial Court do to help attorneys do their jobs more efficiently?”

There are several steps that the Massachusetts Trial Court can take to help attorneys do their jobs more efficiently. These include providing clear and up-to-date information about court procedures and deadlines, streamlining court processes and procedures to reduce the amount of time attorneys must spend in court, and offering training and resources to help attorneys better understand the court system and how to navigate it effectively. Additionally, the court could consider implementing technology-based solutions, such as online filing systems or virtual courtrooms, to make it easier for attorneys to access court documents and participate in court proceedings. These measures could help attorneys save time and focus on providing effective representation to their clients.

A Serious Problem with PDFs

For years there has been a problem with some PDFs on the judicial sections of Mass.gov that were created in Adobe LiveCycle and do not open in most browsers. This is a known problem and has been the source of many complaints over the years. The court prioritized fixing the most commonly used forms and converted these to HTML5 so they can be opened easily. As a result, we have heard that the number of complaint emails is now reduced. However, there are still close to 100 of these problematic PDFs on Mass.gov (as of November, 2022).

This is certainly still a problem, although given that the most commonly used PDFs have been fixed, we no longer consider this to be a serious problem. It is also our understanding that the Judicial Information Services Department (JISD) is now pushing to complete the conversion to HTML5.

This is, however, an excellent example of a usability problem that existed for years on Mass.gov. Just consider the frustration most people will experience when they can’t open a PDF, and note the complexity of the steps you must take to open the PDF if you come across the text below, which is copied from

<https://www.mass.gov/service-details/what-to-do-if-you-cant-open-court-pdfs>:

What to do if you can't open court PDFs

Are you being asked to "Please Wait" when you try to open a court PDF? Find out what to do if you're having trouble accessing or opening court PDF forms or documents.

If you received an error message about your version of Adobe Reader while trying to open a court PDF, the message you received was probably misleading. The issue isn't with your version of Adobe Reader. The file in question, like many court PDFs, has to be opened in actual Adobe software, so if the browser you're using doesn't use Adobe to open PDFs, even if you have Adobe on your computer, you'll see this message.

Please follow these steps to open the file:

1. Download the file, but don't try to open it from within your browser. In most cases, you can do this by right-clicking and selecting "Save link as..." or something similar. If you do open the file, that's OK. Even though it will look like the file isn't there (you may see a single page that says "Please wait," like the screenshot below), go ahead and save the file to your computer anyways.

Please wait...

If this message is not eventually replaced by the proper contents of the document, your PDF viewer may not be able to display this type of document.

You can upgrade to the latest version of Adobe Reader for Windows®, Mac, or Linux® by visiting http://www.adobe.com/go/reader_download.

For more assistance with Adobe Reader visit <http://www.adobe.com/go/acrreader>.

Windows is either a registered trademark or a trademark of Microsoft Corporation in the United States and/or other countries. Mac is a trademark of Apple Inc., registered in the United States and other countries. Linux is the registered trademark of Linus Torvalds in the U.S. and other countries.

2. After you download the file, open Acrobat Reader outside of the browser.
3. Within Acrobat Reader, go to File > Open and open the file you just downloaded.

If Adobe Reader isn't installed on your computer, you can download it at: <https://get.adobe.com/reader/>.

If you continue to have trouble opening the file, please email webrequests@jud.state.ma.us for assistance.

Appendix 6: List of Recommendations

This list gathers our recommendations in one place, leaving out the few that did not have strong evidentiary support. For details on each recommendation, see the corresponding section in the report.

Recommendations: Online Capabilities

Existing Capabilities that Should be Improved and Expanded
eFiling
☐ Expand eFiling to cover all case types, civil and criminal
☐ Improve the speed with which eFiled items are docketed in courts where there's currently a delay
☐ Automatically notify opposing counsel and other parties as appropriate when an item is eFiled
☐ Consider making eFiling mandatory for attorneys once the system has been improved
☐ Make eFiling easier for SRLs
☐ Link Guide and File forms to the eFiling system, so completed forms can be automatically eFiled
☐ Until eFiling is available for all cases types, allow Court Service Centers and Lawyer for the Day programs to file via email
☐ Review the comments and suggestions in Appendix 1
eReminder
☐ Make the eReminder system (text messages about one's next court appearance) available for all case types
☐ Make sure all departments have an online eReminder sign-up form
☐ Include an option to consent to receiving eReminders on all summonses and notices sent to litigants

☐ Consider expanding the eReminder system to include information and reminders about what's next in one's legal case
☐ Allow people to opt in once and have this choice remain in effect
☐ Expand eReminders to include meetings with probation officers
eSignatures
☐ Continue allowing attorneys to sign documents electronically
☐ Consider allowing probationers to sign electronically
ePayment
☐ Make the ePayment portal available in Spanish and other languages
☐ Create a dedicated payment portal, or at least a specialized path that does not require the user to interact directly with the MassCourts interface ○ Make it easy to find the right case ○ Make it easy for the payor to target payment to the right category when there are multiple fees/fines outstanding
☐ Make sure ePayment is easy to use on mobile devices
☐ Waive the service fee
Virtual Court Service Center and Other Remote One-on-One Services
☐ Increase the staffing of the Virtual Court Service Center so it can be available all day long, every day. In addition, the VCSC should be open at least one night during the week.
☐ Set up virtual registries in all court departments (except perhaps the Land Court)
☐ Publicize virtual services more widely, including better naming and explanations
☐ Integrate the various virtual registries more closely with the Virtual Court Service Center and Lawyer for the Day programs
☐ After an online meeting on the virtual registry, offer to send the caller an email

with legal information and information about free and reduced cost legal assistance, following the current practice of the VCSC
☐ Give priority to SRLs over attorneys in the Virtual Registry
☐ Work with Zoom to figure out how to provide callers with wait times
☐ Consider adding online chat and text messaging as additional channels besides Zoom video conferences and phone calls
eDelivery for Attorneys and SRLs
☐ Expand the eDelivery program (whereby the court sends certain notifications and documents to attorneys through email instead of paper mail) to cover all court correspondence and documents
☐ Make sure that in the MassCourts system there is an electronic copy of everything that the court sends out, which parties can view
Guide and File
☐ Continue developing Guide and File forms (document assembly programs) for complex and frequently used forms and forms that need to be filed in an emergency, such as: ○ housing eviction ○ financial statement ○ restraining order
☐ Prioritize redesigning problematic forms (so they use plain language, have an improved visual design, and include detailed instructions) over creating Guide and File versions of unimproved forms
☐ Make sure Guide and File implementations work well on mobile phones
☐ Always provide a way to directly fill out the form (rather than answering a series of questions) for those who are familiar with the form
☐ Monitor the effectiveness of Guide and File forms both via usability studies as well as by an analysis of the number of forms submitted from these programs, whether they were accepted, and the types and number of mistakes
MassCourts
☐ Ensure that all case documents are consistently and promptly accessible

☐ Create an easy-to-use interface into MassCourts for litigants (including SRLs)
☐ Provide better connections and synchronization between MassCourts and other software and systems
☐ Improve the search functionality
☐ Make sure that all the text of entered documents can be searched
☐ Consider automatic notification of the attorney of record in certain situations
☐ Audit the major use cases of frequent users (attorneys, court staff, probation officers, etc.) to uncover usability problems and ways to improve efficiency

New Capabilities We Recommend Adding
Online Dispute Resolution & Online Mediation
☐ Setup up pilot programs to try out online dispute resolution
Real-time Schedule Information for Proceedings
☐ Provide a way to view continuously updated real-time information about when a session or hearing will actually start
Moving Courthouse Proceedings Online
☐ Formalize the use of videoconferencing for short and time-sensitive administrative court events, especially when evidence or witness testimony are not involved
Requests for Disability Accommodations
☐ Develop an online method for parties to request accommodation for disabilities
☐ Include information about how to access this method on all notices that the court sends to parties
Electronic Notarization (e-Notarization)

☐ Allow electronic notarization for all documents requiring notarization
☐ Investigate whether all documents that currently require notarization really do need to be notarized or if that requirement can be relaxed
Self-Service Portal
☐ Start developing requirements and planning for a system that would provide customized information for an individual, given his or her particular legal situation and current stage in the process
Translated Forms
☐ Identify the most commonly used forms and have them translated into more languages
☐ Conduct an audit to make sure that links to translations appear on every Mass.gov page where the form is mentioned
☐ Consider adding an option for people to request the translation of a form
☐ Institute a process to see that any court orders that result from a hearing where an interpreter was requested are translated

New Capabilities That Are Potentially Useful
Chatbots & Virtual Assistants
☐ Continue the existing development of chatbots for judicial pages on Mass.gov
Paying at Retail Stores
☐ Investigate the possibility of adopting a program like Arizona's that lets people pay court fees and fines at popular retail stores like CVS and 7-Eleven

Recommendations: Online Information

Information for Pro Se Litigants
How Can I Get Help?
☐ Mass.gov and courthouses should both provide pointers to providers of free and reduced-rate legal services, including the court's own Court Service Centers (in-person and virtual) and Lawyer for the Day programs. Information about what free legal services will be available in each courthouse, including the day, time, and location within the courthouse, should be available
☐ Audit Mass.gov to make sure that the above information is available on all relevant pages. Good information already does exist on Mass.gov, but it's not salient if you search first for the legal procedure you're interested in
☐ Continue maintaining lists of attorneys who provide Limited Assistance Representation and make sure they are linked to from all relevant pages on Mass.gov
☐ Regularly train and remind all staff operating virtual court services that one of their roles is to provide information about available resources, including Lawyer for the Day programs and Court Service Centers
☐ Create a Zoom background for all court employees that says something like "Ask me about free resources," repeated in several languages
☐ Publicize widely the availability of self-help resources (on Mass.gov and other sites), including on notices that the court sends
☐ Create and publish email addresses for each court department and courthouse so people can ask questions via email; these should be for the court and not an individual so they are monitored at all times independent of who is working on a particular day
How Does My Legal Procedure Work?
☐ To help SRLs understand what's involved in their legal procedure, explanatory information about legal procedures should be presented in multiple ways using multiple formats: ○ On regular Mass.gov pages, which is already done for some procedures, but not in as complete a form as necessary ○ In a sequence of steps on a timeline ○ In flowcharts or process guides

○ As part of the instructions associated with court forms ○ In pamphlets and handouts
☐ Look into ways to leverage the wealth of information useful to SRLs that is put out by various legal aid organizations, perhaps by linking to pages that have been reviewed by the court or by using the material as the basis for developing or expanding the court's own SRL-focused content
☐ To help SRLs with unfamiliar legal terminology, include plain-language explanations whenever such terminology can't be avoided
☐ Make sure that the Law Library's glossary of legal terms is linked to from all relevant Mass.gov pages
☐ Add a list of the most common unfamiliar terms to the home page of the Law Library's glossary of legal terms
What Do I Do in the Courtroom?
☐ Include references to existing information about courtroom proceedings in communications from the court, to help SRLs learn about it
☐ Create informative videos about being in court
☐ Create information for SRLs about how to share evidence
Information for Specific Groups of People
☐ Consider creating content for specific groups of people, such as children, seniors, veterans, and students

Information for Attorneys
Finding Out About Court Proceedings
☐ Publish information about individual court operating procedures online
☐ Publish the results from each bench-bar meeting online
☐ Make a greater effort to ensure that the published information is kept up to date
☐ Make it easy for attorneys to sign up online for any newsletters, listservs, or

email distribution lists maintained by court departments
Court Schedules
☐ Provide greater visibility into the upcoming schedules for individual judges and courts

Information About Courthouses
Information Not Currently Available on Mass.gov
☐ Add indoor maps of the building, especially for large, multi-court complexes
☐ Add information about the availability (or absence) of Zoom rooms

Recommendations: Best Practices for Designing a New Access to Justice Website

Mobile Friendly
☐ Optimize the website experience for mobile users by following mobile-first or responsive design principles
Organization
☐ Make sure the site is well organized
☐ Make sure that search functionality works well
☐ Make sure that each page has a good layout, with important information visible without scrolling
The Home Page is Important
☐ Pay special attention to the design of the court system's home page

Plain Language
☐ Use plain language that does not presume familiarity with legal terms or court jargon and processes
☐ Develop a system for explaining legal terms that can't be avoided
☐ Verify through usability testing that representative users can understand the content
A Note about PDFs and Microsoft Word
☐ Don't use PDF or Word documents for content that can and should just be a regular web page
☐ When a PDF or Word document is necessary, link to it from a page that presents the critical information from the PDF or Word document
☐ Make sure that any links to PDFs or Word documents clearly indicate that they will open a PDF or a Word document
Staying Within the Site
☐ Wherever possible, it should seem to the user that they are still on the new judicial website, even when the functionality is provided by a third party
Comprehensiveness
☐ House all court-related information on the official site and not on separate sites set up by individual groups or departments
Usability Testing
☐ Employ usability testing with representative users to make sure that the new site is easy to use

Recommendations: Legal Proceedings, Forms, Courthouses, and Services

Legal Proceedings
Lack of Uniformity is a Challenge
☐ Work to make sure that court procedures are uniform throughout the court system and do not vary arbitrarily from court to court
Handling Matters Administratively
☐ Streamline the handling of administrative matters, e.g., by dedicating a staff person to handle matters that do not require a clerk's attention, such as assented-to motions
Dispute Resolution
☐ Make as much use of dispute resolution mediation as possible, whether in person or virtually
Default Problems
☐ Create explicit and fair rules about defaulting and complaint dismissal

Information but not Advice
☐ Review the training and instructions given to court staff to make sure they are not overly conservative with respect to what help to give to SRLs

Legal Forms
Uniformity
☐ Work to make sure that court forms are uniform throughout the court system

and do not vary arbitrarily from court to court
A packet of forms
☐ Create a packet of all the forms that each party would need for a given type of case, and have it available in clerks' offices and online
Instructions
☐ Make sure that all forms incorporate detailed instructions in plain language
Not just forms
☐ Improve the effectiveness of all summonses and notices by making sure they are written in plain language, are clearly laid out to emphasize the most important information, and include helpful content or references to where the recipient can learn more
Technical Difficulties
☐ Continue auditing Mass.gov for forms that pose technical difficulties for people attempting to download them

Zoom and Remote Proceedings
☐ Draft standards for when remote hearings should occur, how to handle exceptions, and how to enforce the standards
☐ Eliminate audio-only hearings and use Zoom by default (users without video can still call in)

Courts & Courthouses
Information at Court Entrances
☐ Place information desks just past security in larger courthouses to answer basic questions ○ Staff should be multilingual, with badges identifying the languages they

☐ speak
☐ Make sure all courts have appropriate signage, posters, maps, etc. to help visitors figure out where to go and what resources are available in court that day, e.g., Lawyer for the Day
Zoom Rooms
☐ Open more Zoom rooms (where people without technical means can attend remote hearings)
Partnering with Libraries, and Public Kiosks
☐ Evaluate the effectiveness of the Court's A2J initiative to partner with libraries to provide space for attending court proceedings remotely
☐ Consult with the Center for Social Justice at the Western New England Law School to learn about their experience setting up and maintaining kiosks (computer stations) in the Springfield area
Technology
☐ Improve WiFi coverage and bandwidth in courthouses
☐ Continue allowing cell phones in courthouses
Court Staff
☐ Increase staffing to better handle the workload
Communicating with the Court
☐ Consider creating a court call center where staff can look up cases on MassCourts for callers, refer people to the Court Service Center (virtual and physical), the Virtual Registry, legal aid organizations, and so on
☐ Collect as much contact information as possible from people when they first come in contact with the court system, including mobile phone numbers to allow for contact via text messaging
Court Service Centers

☐ Physical Court Service Centers should be staffed and open every day, all day long, and ideally at least one night during the week
☐ Increase funding for Court Service Centers
☐ Make more of the helpful information developed by Court Service Centers available online
Nonlawyer Navigators
☐ Dramatically expand the current use of volunteers for one-on-one assistance, both in the number of volunteers and the types of tasks they work on, going beyond what they currently do in the Court Service Centers

Interpreters
☐ Train court employees and encourage them to use the language line when an interpreter is not available
☐ Include information about an individual's rights to request an interpreter on all court notices and summonses
☐ Encourage all courts to use simultaneous interpretation when it is requested
☐ When the SRL is physically in the courtroom, efforts should be made to have the interpreter physically present as well
☐ Have multilingual court employees wear a badge listing the languages they speak
☐ Make interpreters available for mediation sessions

Appendix 7: Feedback on this Report from Court Personnel and Attorneys

The corrections and feedback we received from court personnel on an earlier version of this report were very helpful. When the Trial Court approves this report for public release, we would also like to elicit feedback from some of the attorneys we interviewed, as well as from additional court personnel. We will ask for permission before including any corrections and feedback we receive, and will include it without a name or with a general description, whichever you prefer. (We think it would be helpful to include a general description such as “Legal aid attorney,” or “Court staff, Housing Court,” or “Documentation specialist at a private company.”)

Feedback from Attorneys

Feedback from Court Personnel

Feedback from Others