A ccess to affordable legal services is crucial in a society based on the rule of law. However, legal services in the United States are increasingly more expensive, time-consuming, and complex. That makes essential legal services out of reach for most Americans, who are forced to represent themselves or end up circumventing the legal system altogether. Underfunding of the courts further aggravates the access-to-justice crisis, as programs designed to help those who cannot afford legal representation are being cut. Meanwhile, technology, globalization, and other forces are altering the ways in which legal services are accessed and delivered, leading to an evolving marketplace in which traditional practice structures are not the only offering; rather, new providers, both online and offline, are delivering legal services, products, and information in significantly new and different ways. In the wake of these forces, we must pause and examine how the legal profession can ensure that the justice system serves everyone.

The ABA Commission on the Future of Legal Services

In 2014, the American Bar Association established the Commission on the Future of Legal Services, which set out to improve access to and delivery of legal services in the United States by investigating the current realities and offering its recommendations. From 2014 to 2016, the Commission examined why access to legal services remains out of reach for many Americans, studied traditional and evolving delivery models for legal services, and examined the strengths and weaknesses of the legal profession and justice system affecting the delivery of legal services. It gathered information through 85 grassroots meetings across the country and the solicitation of comments from the legal profession and the public, as well as by holding hearings and conducting webinars delivered by experts on emerging issues in the delivery of legal services. It also held a National Summit on Innovation in Legal Services at Stanford University in May 2015 to encourage bar leaders, judges, court personnel, practitioners, businesses, clients, technology specialists, and innovators to voice their opinions on more effective ways to deliver legal services.

The Commission’s charge was to analyze the ideas and insights obtained through this information-gathering process; establish internal working groups to evaluate new models for the access to and delivery of legal services; and “[e]xamine and, as appropriate, propose new approaches to
legal services delivery that are not constrained by traditional models and are rooted in the essential values of protecting the public, enhancing diversity and inclusion, and pursuing justice for all.” The Commission’s work culminated in the Report on the Future of Legal Services in the United States, issued in August 2016, which sets forth the Commission’s findings and its recommendations for improving the delivery of legal services in the United States. Discussion of some of the key findings and recommendations follows; for the complete lists of findings and recommendations, see pages 26–29.

The Commission’s Findings

What set the Commission’s work apart from other attempts to study the future of legal services was its sheer breadth and depth. From the unbundling of legal services to self-help centers, from nonlawyer legal service providers to online dispute resolution, from legal education to stationhouse representation, the Commission explored a wide range of subjects. The Commission released a concise report, heavily footnoted and hyperlinked for those seeking information about specific subjects. The Commission also released several videos and interactive materials on its Report website.

There are three broad findings:

(A) Despite sustained efforts to expand the public’s access to legal services, significant unmet needs persist.

(B) Advancements in technology and other innovations continue to change how legal services can be accessed and delivered.

(C) Public trust and confidence in obtaining justice and in accessing legal services is compromised by bias, discrimination, complexity, and lack of resources.

The following explores each in more detail.

A. Despite Sustained Efforts to Expand the Public’s Access to Legal Services, Significant Unmet Needs Persist.

The Commission identified several impediments to access to legal services. For instance, the Legal Services Corporation (LSC), the primary vehicle for federal legal aid dollars, has long been underfunded, thereby accommodating only a small fraction of those who require legal services. In some jurisdictions, more than 80 percent of litigants living in poverty are unrepresented in legal matters that involve basic life needs (such as those affecting livelihood, shelter, and the care and custody of dependents). And despite the profession’s strong ongoing commitment to providing pro bono legal services, the Commission found that reliance on pro bono services alone could not possibly address the significant unmet legal needs among the poor. Since the Commission released its Report, the threats to the LSC have grown. The ABA is working hard to ensure that the LSC not only continues to exist for low-income Americans for decades to come but is also funded at a level that ensures access to quality legal representation not just for some, but for all Americans in need.

Even among moderate-income individuals, lack of basic civil legal assistance is a concern, a problem that is compounded by the fact that these individuals do not meet the financial qualifications to receive legal aid and so have even fewer options. Although numerous programs have emerged to offer legal assistance to moderate-income individuals through a range of delivery models—for instance, offering legal services in a variety of public locations targeting specific needs such as wills, evictions, and medical issues—the unmet legal assistance needs of moderate-income individuals remain considerable.

One of the Report’s most salient findings was that the traditional law practice business model—individualized lawyering on a one-to-one basis through solo and law firm practices with services
billable on an hourly basis—constrains innovations that may provide greater access to and enhance the delivery of legal services. Although many legal problems require a lawyer, other problems do not. Fortunately, despite what the Commission found as a long-standing resistance to change in the legal profession, there has been increased willingness in recent years to experiment with innovations that create greater access to justice, such as the introduction of nonlawyer and limited-license providers to deliver cost-effective and competent legal help. The recently launched ABA Center for Innovation (discussed below) creates a safe space in which to drive innovation and accelerate the development of new tools and fresh ideas that will benefit the public that the legal profession is sworn to serve.

The Commission further found that despite the high unmet need for legal services in low- and moderate-income individuals, many lawyers, especially recent law graduates, are either unemployed or underemployed (and thereby find it difficult to obtain the practical experience needed to enter practice effectively). This finding succinctly captures what is perhaps the legal profession’s greatest paradox: high demand coupled with high supply. Through innovation, the future of legal services can include ways to address both new lawyers’ unemployment and underemployment and the public’s inability to access quality legal services. Law schools and bar associations are working on several projects to address these concerns, including legal incubators, which provide law students and recent graduates opportunities to provide legal services to low- and moderate-income clients, and expanded clinical programs. Yet there is much work left to be done.

B. Advancements in Technology and Other Innovations Continue to Change How Legal Services Can Be Accessed and Delivered.

Technology has transformed travel, banking, and medicine. It appears that the legal profession is on the brink of a similar tech-driven transformation. The extent and manner of those changes have yet to be seen. In this decisive moment, the profession must ensure that these changes benefit the public, especially those who have limited or no access to legal services. There are already sparks of technological innovation that are improving access to justice. For example, in Arizona, a kiosk north of the Grand Canyon now provides remote access to courts, so that citizens need not drive nearly eight hours to the nearest courthouse. And in Oregon, smartphone applications now provide virtual support to parolees around the clock. Law schools have taken notice of the changing climate as well. Schools are beginning to offer courses on e-discovery, outcome prediction, and virtual lawyering.

Yet not all innovation is technology-based. Legal incubators, as mentioned earlier, now allow recent law school graduates to provide services to low- and moderate-income persons, while allowing young lawyers to gain valuable practice experience. Similarly, unbundling of legal services is reducing the cost of legal services by breaking legal representation into distinct, affordable tasks. And process innovation is not limited to lawyers. Jurisdictions are increasingly authorizing practice by persons who are not lawyers to meet discrete, limited legal needs. The State of Washington, for instance, has created Limited License Legal Technicians (LLTs), paraprofessionals who are able to provide limited legal advice. The authorization of these paraprofessionals is a prime example of non–technology-based innovative thought and has required thought leadership from the court and the bar regarding qualifications, licensing, and regulation.

C. Public Trust and Confidence in Obtaining Justice and in Accessing Legal Services Is Compromised by Bias, Discrimination, Complexity, and Lack of Resources.

When the public turns to lawyers, it too often finds a profession that does not look like them. In 2015,
approximately 65% of lawyers were male, and roughly 88% were white. For the leaders of our profession, those numbers are even more dismal. And the problem runs deeper still. Conscious and unconscious bias in the legal system continues to deprive Americans of equal treatment. The ABA is working hard to change that. Goal III of the ABA’s mission includes promotion of full and equal participation in the ABA, the legal profession, and the justice system by all persons, as well as the elimination of bias in the legal profession and the justice system. A concerted effort by law schools, bar associations, and law firms is necessary to root out bias and create a more diverse and equal profession. The United States is becoming more diverse, and the legal profession should embrace and reflect that change. This effort is discussed at greater length in the Report’s recommendations.

Lack of diversity and unequal treatment are not the only things that have lessened public trust and confidence in the legal profession. For the public, the legal system can often feel like a high-stakes board game with no instructions. The law is complex, often needlessly so. This complexity often weighs most heavily upon the untold number of unrepresented litigants in the United States. Increasingly, for many poor and moderate-means Americans, courts are not seen as the most efficient way to deal with conflict or controversy.

The Commission’s Recommendations
Like its findings, the Commission’s recommendations are concise, and, more importantly, the Commission firmly believes that they are attainable. A few key findings are discussed below.

As courts consider regulatory innovations to improve the delivery of legal services such as judicially authorized and regulated legal service providers (LSPs) and entities employing new technologies and Internet-based platforms, the Commission urges the courts to look to the ABA Model Regulatory Objectives for the Provision of Legal Services for guidance. The Model Regulatory Objectives (see page 21) were developed by the ABA Commission on the Future of Legal Services to be used as a guide to courts as they face the access-to-justice crisis and the fast-paced change affecting the delivery of legal services. In February 2016, the ABA House of Delegates adopted the Model Regulatory Objectives and urged each jurisdiction’s highest court to be guided by them as they assess the court’s existing regulatory framework and any other regulations being considered regarding nontraditional LSPs. These regulations can help definitively set forth the purpose of lawyer regulation, creating transparency, predictability, and a basis on which to assess future regulation. Indeed, the Conference of Chief Justices passed its own resolution in February 2016 recommending to its members that they consider the Model Regulatory Objectives.

Recommendation 7. The Legal Profession Should Partner with Other Disciplines and the Public for Insights about Innovating the Delivery of Legal Services.
While legal professionals are driving change on many fronts, the efforts to increase access to justice will benefit from collaboration with other disciplines. The tools we need for transformative change often exist within other disciplines. In many cases, borrowing from these disciplines—including technology, engineering, sociology, design, medicine, and data science—can produce impressive results. The work of the ABA Center for Innovation (discussed below) has been heavily influenced by design thinking, particularly when developing new processes or technological tools.
ABA Model Regulatory Objectives for the Provision of Legal Services

A. Protection of the public
B. Advancement of the administration of justice and the rule of law
C. Meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems
D. Transparency regarding the nature and scope of legal services to be provided, the credentials of those who provide them, and the availability of regulatory protections
E. Delivery of affordable and accessible legal services
F. Efficient, competent, and ethical delivery of legal services
G. Protection of privileged and confidential information
H. Independence of professional judgment
I. Accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs
J. Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system


As described in the Report’s findings, the legal profession is not reflective of the American population. To this end, the ABA has called for mandatory continuing legal education to require programming on diversity and inclusion in the legal profession. Today, only two states, California and Minnesota, have adopted programming that satisfies this requirement. Bar associations, law firms, law schools, and courts should likewise incorporate training regarding diversity and inclusion.

Yet diversity and inclusion alone are insufficient. As mentioned earlier, there is ample evidence of bias in the legal system, both conscious and unconscious. Our profession must do more to acknowledge our role and shine a light on such bias and root it out. While this is a challenging task, there is a simple step that lawyers and judges may take on the path toward greater equality. Scientists at Harvard University, the University of Virginia, and the University of Washington have created a series of Implicit Association Tests (IATs) designed to measure unconscious bias; taking these tests often produces surprising results, shedding light on some of our own biases.10


While many challenges lie ahead, the legal profession should be heartened that we already know some of the solutions. One such solution is expanding the Legal Services Corporation. Federally funded, the LSC has, for decades, supported the provision of legal services to millions of families and individuals across the United States. In many rural areas, LSC-funded programs deliver the only legal aid in the region. The struggle for sufficient LSC funding has been
perennial. Yet, today, the threat has never been greater. The current administration’s budget would eliminate the LSC, devastating the provision of legal aid in this country. The ABA promptly responded by launching Legal Aid Defender, a website where members of the public can register their support for the LSC. The elimination of the LSC would be a substantial step backward at a time when the legal profession is approaching great improvements.

Taken together, these recommendations form a clear road map for progress. That road map spans civil and criminal law. It recognizes the need for technological innovation but admits that technology alone is no panacea. It also recognizes that neither this Commission nor this Report can be the final word. Rather, as stated in Recommendation 12, “[t]he ABA and other bar associations should make the examination of the future of legal services part of their ongoing strategic long-range planning.” Lawyers must continually revisit this subject, measuring progress along the way.

The time to begin is now. Individual lawyers, bar associations, courts, and bar examiners can take steps today to act on each recommendation and move the ball forward. The ABA, for its part, has demonstrated that it is committed to shaping the future of legal services; it aims to pave the way with the creation of the Center for Innovation.

The ABA Center for Innovation

Soon after the Report’s release, the ABA announced that it was implementing Recommendation 6 by establishing a Center for Innovation. The purpose of the Center proposed by the Commission was to position the ABA as a leader of the profession’s efforts and, through innovative programs and initiatives, to increase access to legal services, as well as improve the delivery of those services to the public. The Commission acknowledged that innovation is an ongoing process requiring sustained effort and resources and an openness to change, and its goal in recommending the creation of the Center was to sustain and cultivate such future innovation.

The ABA Center for Innovation aims to create more accessible, efficient, and effective legal services in the United States through innovation, education, and collaboration. The Center has already been fielding inquiries and serving as a resource as legal services stakeholders begin to examine the Commission’s recommendations. The Center is chaired by Suffolk University Law School Dean Andrew Perlman (who served as vice-chair of the Commission), and its Governing and Advisory Councils include legal services luminaries, as well as leaders in technology and design. A full discussion of the Center’s mission and goals can be found on the Center’s website. Below is a brief description of three recent projects that are illustrative of the Center’s work as well as a summary of the fellowship program it operates.

Developing Crucial Resources for Those in Need

In its first six months of existence, the Center has engaged in numerous projects that have made a great impact on the delivery of legal services. Several projects have been in response to crises that have a legal dimension. For instance, in 2016, floods ravaged the areas in and around Baton Rouge, Louisiana. Yet flood victims often lack the documentation of home ownership that is required to establish eligibility for disaster assistance from the Federal Emergency Management Agency (FEMA). Working with Stanford Law School, Louisiana State University Law School, Southeast Louisiana Legal Services, and Louisiana Appleseed, the Center developed Flood Proof, a mobile app to help flood victims gather documents needed to establish home ownership and complete FEMA, SBA loan, and state recovery submissions. The app also alerts them to appropriate legal services in the region based on income qualifications. The app is part of an overall
program to deliver needed legal services to flood victims, which was undertaken in collaboration with the above partners and Southern Law School, the Louisiana State Bar Association, the Louisiana Bar Foundation, the Baton Rouge Bar Association, the ABA Standing Committee on Disaster Preparedness and Recovery, and state and local government, and funded by the W.K. Kellogg Foundation and the Baton Rouge Area Foundation.

In January 2017, following a presidential executive order that detained scores of immigrants at airports, attorneys across the United States flocked to major airports to assist. Yet there were often no scheduling tools, training materials, or protocols in place. Within days of the executive order, the Center worked with the American Immigration Lawyers Association (AILA) and the ABA Law Practice Division to launch immigrationjustice.us, a website that supports pro bono attorneys seeking to engage in immigration law. The website provides necessary resources for organizing pro bono attorneys nationwide. The Center also drafted a short toolkit for quickly developing rapid response websites. This project demonstrated that bar associations can work together with agility and common purpose, particularly when aided by innovation.

Working with Cisco, CuroLegal, Stanford Law School, and Suffolk University, the Center is now developing a Hate Crimes app. The app will help people determine if they have been victims of hate crimes and understand their state’s hate crime statutes. It will also automate fact-gathering for hate crime reports and demystify the reporting process.

Fellowship Program to Enhance Legal Services and Improve Access to Justice

The Center also has launched a two-track fellowship program. NextGen Fellows will be recent law school graduates who will work in residence at the Center for one year on an innovative project of their choice. Through a one-week boot camp and a rigorous yearlong curriculum, the Center will support these Fellows, teaching them about the state of legal services in the United States, legal technology, legal design, and the innovation process. Starting in August 2017, the inaugural class will include two Fellows sponsored by the Center. The Center is also proud to partner with Microsoft, Northwestern University’s Pritzker School of Law, American University’s Washington College of Law, and Suffolk University Law School, which will each sponsor an additional NextGen Fellow. Five of these NextGen Fellows will work at ABA headquarters in Chicago, Illinois. The sixth will work in residence at Microsoft’s campus in Redmond, Washington. Specifically, the ABA Center for Innovation–Microsoft NextGen Fellow will work with Microsoft and the Legal Services Corporation to create statewide online justice portals that direct low-income persons to the appropriate legal aid resources in each state.

The Center’s Innovation Fellows will be midcareer individuals—lawyers and nonlawyers alike—with a deep interest in legal innovation. Like most of their NextGen counterparts, Innovation Fellows will be in residence at ABA headquarters. ABA members and staff will assist these Fellows in launching or completing creative projects that improve legal services in the United States. Unlike NextGen Fellows, Innovation Fellows will typically take brief sabbaticals from their jobs to work at the ABA for 9 to 12 weeks. The Center will sponsor two Innovation Fellows, and, through a cooperative effort of the North Carolina Bar Association, the North Carolina Supreme Court, and the State’s Administrative Office of the Courts, another Innovation Fellow will join the ranks of the inaugural class.

Moving Forward

Although the Center for Innovation is advancing the pace at which the profession is improving the delivery of legal services in the United States, change—or, at least, some changes—will not happen overnight.
In shaping the future of legal services, the profession must look to its future leaders and ensure that the ranks of the legal profession remain filled with dedicated, competent, and skilled individuals. Whether faced with losing their homes, jobs, families, loved ones, or freedom, members of the public are often in their darkest hours when turning to attorneys for help. Ensuring that all persons have access to quality legal representation—regardless of race or ethnicity, income, gender, sexual preference, or gender identity—is perhaps the profession’s greatest challenge and certainly its greatest responsibility. And as law schools, courts, and bar associations increasingly adopt rules, systems, and practices that meet the challenge of providing full access to legal services in the United States through innovation, all stakeholders must be at the table to ensure that law schools continue to produce lawyers who are prepared not only to leverage the substantive and procedural knowledge of law that they have gained, but to do so using innovation that benefits America’s low-income and moderate-means populations.

Recommendation 3 in the Commission’s Report states that all members of the legal profession should keep abreast of relevant technologies. Today’s law school graduates must be equipped with an understanding of technology and what it can offer in support of the delivery of legal services. Newly minted attorneys in each state should be familiar with current legal technology. Indeed, they should be able not only to work with today’s legal technology, but also to adapt as that technology takes the profession in entirely new directions. Today, many persons who have earned a juris doctor degree may never practice in a traditional law firm setting. Understanding the extent to which recent law school graduates will encounter new technologies and Internet-based platforms, operate virtual law offices, practice globally, or have law practices that simply are different from traditional firms is important to the licensing of the next generation of law professionals.

In comparison to that of other professions, the legal profession’s technological advancement has been sluggish. The profession has failed to embrace technology and process changes in the ways in which medicine, engineering, and aviation have. These other professions have not embraced change for change’s sake. Rather, they have evolved not only to meet the demands of the public but also to unilaterally initiate change in order to deliver higher-quality, more efficient, and more effective service. Think about just a few of the innovations that have benefitted the public in those sectors: videoconferencing for patients in remote areas, base isolators to minimize the effects of earthquakes on public buildings, and changes in planes’ wing curvature to burn less fossil fuel.

It is time now for the legal profession, including the delivery of legal services, to change, too. Not for disruption’s sake, but to meet a real need: the provision of legal services to those who cannot afford them. With the Center for Innovation, the ABA aims to help lead the charge. The Center welcomes the chance to work with the legal community to advance this strategic endeavor.

Notes

1. For the ABA web page of the Commission on the Future of Legal Services, see http://www.americanbar.org/groups/centers_commissions/commission-on-the-future-of-legal-services.html.


4. See id.

5. The Legal Services Corporation is an independent nonprofit established by Congress in 1974 to provide financial support for civil legal aid to low-income Americans. It provides funding to 134 independent nonprofit legal aid programs in every state, the District of Columbia, and U.S. territories.


Judy Perry Martinez served as chair of the American Bar Association Commission on the Future of Legal Services from 2014 to 2016. She currently serves as Special Advisor to the ABA Center for Innovation.

Geoffrey Thomas Burkhart serves as Deputy Director for the ABA Center for Innovation.

(See pages 26–29 for the Commission’s findings and recommendations.)
FINDINGS
of the ABA Commission on the Future of Legal Services

A. Despite sustained efforts to expand the public’s access to legal services, significant unmet needs persist.

1. Most people living in poverty, and the majority of moderate-income individuals, do not receive the legal help they need.

   a. Funding of the Legal Services Corporation and other legal aid providers remains insufficient and will continue to be inadequate in the future.

   b. Pro bono alone cannot provide the poor with adequate legal services to address their unmet legal needs.

   c. Efforts targeting legal assistance for moderate-income individuals have not satisfied the need.

2. The public often does not obtain effective assistance with legal problems, either because of insufficient financial resources or a lack of knowledge about when legal problems exist that require resolution through legal representation.

3. The vast number of unrepresented parties in court adversely impacts all litigants, including those who have representation.

4. Many lawyers, especially recent law graduates, are un- or underemployed despite the significant unmet need for legal services.

5. The traditional law practice business model constrains innovations that would provide greater access to, and enhance the delivery of, legal services.

6. The legal profession’s resistance to change hinders additional innovations.

7. Limited data has impeded efforts to identify and assess the most effective innovations in legal services delivery.

B. Advancements in technology and other innovations continue to change how legal services can be accessed and delivered.

1. Courts, bar associations, law schools, and lawyers are experimenting with innovative methods to assist the public in meeting their needs for legal services.

   a. Courts

      • Remote access technology
      • Self-help centers
      • Online dispute resolution
      • Judicially authorized and regulated legal services providers

   b. Bar associations

      • Online legal resource centers and lawyer referral innovations
      • Access to justice and future of legal services endeavors
c. Law schools: Curriculum and incubators

d. Lawyers, law firms, and general counsel
   • Alternative billing
   • Document assembly and automation
   • Legal process outsourcing
   • Legal startups
   • Medical-legal partnerships
   • Artificial intelligence
   • Mobile applications
   • Nonprofits
   • Procurement efficiencies to lower costs
   • Project management and process improvement
   • Prepaid legal services plans and insurance coverage
   • Unbundling of legal services

2. New providers of legal services are proliferating and creating additional choices for consumers and lawyers.

C. Public trust and confidence in obtaining justice and in accessing legal services is compromised by bias, discrimination, complexity, and lack of resources.

1. The legal profession does not yet reflect the diversity of the public, especially in positions of leadership and power.

2. Bias—both conscious and unconscious—impedes fairness and justice in the legal system.

3. The complexity of the justice system and the public’s lack of understanding about how it functions undermine the public’s trust and confidence.

4. The criminal justice system is overwhelmed by mass incarceration and over-criminalization coupled with inadequate resources.

5. Federal and state governments have not funded or supported the court system adequately, putting the rule of law at risk.
RECOMMENDATIONS of the ABA Commission on the Future of Legal Services

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

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

2.1. Courts should consider adopting the ABA Model Regulatory Objectives for the Provision of Legal Services.

2.2. Courts should examine, and if they deem appropriate and beneficial to providing greater access to competent legal services, adopt rules and procedures for judicially authorized and regulated legal services providers.

2.3. States should explore how legal services are delivered by entities that employ new technologies and Internet-based platforms and then assess the benefits and risks to the public associated with those services.

2.4. Continued exploration of alternative business structures (ABS) will be useful, and where ABS is allowed, evidence and data regarding the risks and benefits associated with these entities should be developed and assessed.

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

RECOMMENDATION 4. Individuals should have regular legal checkups, and the ABA should create guidelines for lawyers, bar associations, and others who develop and administer such checkups.

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

5.1. Physical and virtual access to courts should be expanded.

5.2. Courts should consider streamlining litigation processes through uniform, plain language forms and, where appropriate, expedited litigation procedures.

5.3. Multilingual written materials should be adopted by courts, and the availability of qualified translators and interpreters should be expanded.

5.4. Court-annexed online dispute resolution systems should be piloted and, as appropriate, expanded.

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

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

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

7.2. Law schools and bar associations, including the ABA, should offer more continuing legal education and other opportunities for lawyers to study entrepreneurship, innovation, the business and economics of law practice, and other relevant disciplines.
RECOMMENDATION 8. The legal profession should adopt methods, policies, standards, and practices to best advance diversity and inclusion.

RECOMMENDATION 9. The criminal justice system should be reformed.

9.1. The Commission endorses reforms proposed by the ABA Justice Kennedy Commission1 and others.

9.2. Administrative fines and fees should be adjusted to avoid a disproportionate impact on the poor and to avoid incarceration due to nonpayment of fines and fees.

9.3. Courts should encourage the creation of programs to provide training and mentoring for those who are incarcerated with a goal of easing re-entry into society as productive and law-abiding citizens.

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

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

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

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

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

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

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

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1 Editor’s Note: The ABA Justice Kennedy Commission was convened in 2004 by then–ABA president Dennis W. Archer in response to a challenge by Justice Anthony Kennedy to evaluate the American penal system in light of a number of criminal justice issues. The Commission, charged with undertaking a comprehensive evaluation of these issues and submitting its policy recommendations, submitted two Resolutions to the ABA House of Delegates in 2004 (both of which were approved), urging jurisdictions and the federal government to ensure that sentencing systems provide appropriate punishment without over-relying on incarceration and to establish standards related to the reduction of prison sentences.