

# The Digital Divide and Access to Justice

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# What is the “Digital Divide”?

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The Digital Divide is defined as the gulf between those who have ready access to computers and the internet, and those who do not.

Within systems, the Digital Divide very often creates a barrier to accessing essential services, including the administration of justice.

## Elements of the digital divide include:

- Lack of access to broadband internet
- Lack of access to hardware (e.g., smart phones, laptops, tablets)
- Lack of knowledge of and ability to navigate available technology (“digital literacy”).

# Introduction

Kristin Brown

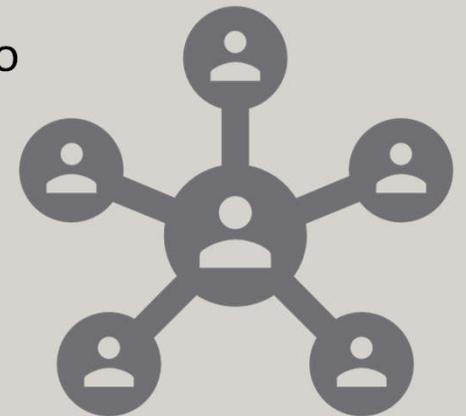
# Why Does the Digital Divide Matter to the Justice System?

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- During the pandemic, our court system shifted from almost entirely in-person to *almost entirely virtual*.
- *Expanded reliance* on technology provided greater access to justice for some court users, but also created significant new barriers for others, particularly individuals from low-income and Black and Brown communities, those who have language access needs including ASL, seniors, and people grappling with physical and cognitive deficits and other marginalized communities.
- Chief Judge DiFiore asked the Permanent Commission and Judge Edwina Mendelson to *recommend ways to address these challenges*.

# Who is Impacted Most by the Digital Divide?

- ❖ Like everything else in our society, the Digital Divide impacts those living at or near the poverty line and Black and Brown communities disproportionately.
- ❖ Across the country, approximately 18% of Black or African American households do not have broadband internet access at home compared to approximately 10% of white households.
- ❖ In New York State, one-third of African American and Latino households do not have broadband access at home and similar numbers do not have desktop or tablet devices to access school, work, or government services including our justice system.



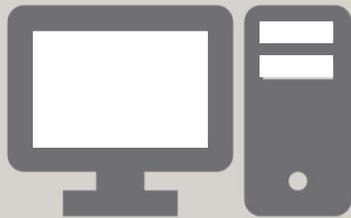
# The Digital Divide is NOT JUST a Rural Issue

- According to the 2018 American Community Survey, across the US, more than three times as many urban households than rural households do not have access to broadband at home.
- 1.5 million NYC residents have no access to internet at all and 46% of those living in poverty have no access to broadband in their home.

Households without Cable, Fiber Optic or Wired Internet Access (%)		Households without Broadband (including Cellular Data) (%)	
Rochester	40.68%	Mount Vernon	27.34%
Syracuse	40.23%	Syracuse	24.63%
New Rochelle	35.74%	New Rochelle	23.41%
Buffalo	33.75%	Rochester	21.96%
Yonkers	32.77%	Schenectady	19.76%
New York	28.71%	Buffalo	18.60%
Albany	27.96%	Yonkers	17.58%
Schenectady	27.93%	New York	14.85%
Brentwood (Suffolk County)	19.67%	Albany	14.76%

# Digital Access Requires Digital Tools

The majority of New York State households living at less than \$25,000 a year in income do not have devices necessary to participate in school, work, or virtual court systems from their homes.



- Outside New York City, 4.23 million households lack digital tools.
- 51% of New York State non-metropolitan households lack desktop or laptop computers, and 67 % lack tablet computers.
- 50% of New York State metropolitan households lack desktop or laptop computers, and 64.6% lack tablet computers.

# Results of Working Group's Court User Survey

Neil Steinkamp

# Results of Court User Survey

## Unrepresented Litigants Virtual Court Experiences

Unable to find required docs and forms	15%
Unable to read forms in language provided	5%
Unable to understand document wording	10%
Unable to find needed forms to complete	17%
Did not know which forms to complete	25%
Experienced major tech problems	20%
Experienced minor tech problems	10%
Did not experience any tech problems	60%
Needed assistance with online forms	75%
Preference to not appear remotely	20% - 25%

- ✓ Additionally, nearly 40% of unrepresented litigants indicated sending papers to the court online was either:
  - very difficult (32%)
  - or somewhat difficult (26%)
- ✓ 79% of unrepresented litigants used websites to try to find information about their legal rights or to try to find help with their case.
  - Only 60% of unrepresented litigants were able to find what they were looking for online.

# Expansion of Access to Technology

Adriene Holder

# Access to Technology is Essential to Addressing the Digital Divide

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*To begin to address this divide, it is necessary for the court system, working with other justice stakeholders, to identify at the outset the availability of digital inclusion assets and resources at the local, regional, and state level.*

Information about available services could be compiled into detailed guide for broad dissemination that would include:

- Location and days and hours of availability
- Reservation system and time limits, if any
- Equipment availability
- Privacy accommodations
- Restrictions, if any, on court type or legal matter
- Availability of technical assistance (e.g., via navigator, chat, on-site staff)
- Language access support
- ADA accommodations



# Constructive Models

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Justice Tablet Initiative



Law Schools/Students teaching digital literacy or being digital navigators



Simplify civil practice requirements that unduly burden those with low digital literacy: e.g. complex forms, notarization

# Providing Technological Support and Training

Adriene Holder

# Technology Support and Training Needed to Bridge the Digital Divide

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Access to affordable high-speed internet and appropriate devices alone will not bridge the digital divide for vulnerable New Yorkers.

Court users with limited technological knowledge and experience require ongoing support to use technology to perform the varied tasks involved in remote court operations and proceedings. Challenges include:

- ✓ Lack of basic technological skills such as how to turn on/off a device;
- ✓ How to download an application or a program;
- ✓ How to scan and upload documents;
- ✓ How to log in to programs;
- ✓ How to connect a camera and/or microphone to a device; and how to connect to Wi-Fi.

The court, community-based organizations, libraries, faith-based institutions, law students, and pro bono attorneys can work together to provide technological support such as court navigation for court users.

# Increasing the Accessibility of Virtual Proceedings

Lillian M. Moy

# Virtual Proceedings Must Be Accessible and User-Friendly

Pros (for attorneys and litigants):

- Save time and resources

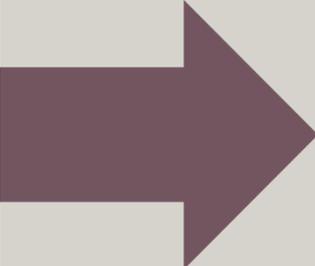
Cons (for attorneys and litigants):

- Video conferencing, especially, present access to justice barriers

# **One Size Does Not Fit All**

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**Hybrid proceedings, where some appear in person and others appear remotely, must be assessed**

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- Mode of access can impact fairness of proceeding
  - Court should assess whether it would be best to conduct for all via voice only
  - Access to equivalent audio and visual access is essential

# Simple Right to Opt Out of Virtual/Hybrid Proceedings

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- A litigant lacks technology or digital literacy
- Audio or visual access is not equivalent
- To ensure transparency and uniformity across courts and case types
- Plain language notices and instructions
- Timely and consistently
- Protocols for attorney/client confidential communication for all litigants
- Assessed through data collection

# Ensure Community Outreach and Communication

Lillian M. Moy

# Ensure Community Outreach, Communication, Coordination and Oversight

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- ✓ Communicate with low-income and other vulnerable communities about digital inclusion assets and resources available to them
- ✓ Various community supports often are available but not widely known or easy to access.
- ✓ Need stakeholder communication and collaboration and local coordination and oversight

# Acknowledgments

## The Working Group expresses our thanks in particular to:

- American Association of Retired Persons (William Ferris, New York State Legislative Representative and Coralette Hannon, Senior Legislative Representative) and Public Utility Law Project (Richard Berkley, Executive Director)
- Brennan Center for Justice (Alicia Bannon, Managing Director)
- Columbia University School of Law (Conrad Johnson, Clinical Professor of Law, Lawyering in the Digital Age Clinic)
- Illinois Justice for All Advisory Committee (Alice Cottingham, Consultant, and Alison Spanner, Assistant Director, Access to Justice Division, Illinois Courts)
- National Digital Inclusion Alliance (Angela Siefer, Executive Director)
- New York State Library (Lauren Moore, State Librarian)
- Pro Bono Net (Mark O'Brien, Executive Director, Liz Keith, Program Director, and Josh Waldman, Legal Content and Network Support Assistant)
- Empire Justice Center (Luis Ormaechea, Staff Attorney)
- The Legal Aid Society (Tashi Lhewa, Supervising Attorney, and Sharone Miodovsky, Staff Attorney)
- Legal Assistance of Western New York, Inc. (Matthew Davis, Managing Attorney, and Elizabeth Hendy, Staff Attorney)
- Legal Services of the Hudson Valley (Andrew Lessig, Staff Attorney, and Lucy Turner, Staff Attorney)
- Legal Services NYC (Norey Navarro, Senior Staff Attorney and Beck Zucker, Staff Attorney)

# Thank you.

If you would like more information about the digital divide,  
please contact the Permanent Commission at:

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