

Access to Justice:

What It Is, Why It Matters, and
How You Can Help



What is “access to justice”?

→ A person’s ability to use the legal system to advocate for themselves and their interests

- Ability to appear in court
- Social context of the court system
- Systemic barriers
 - Socioeconomic status
 - Geographic location
 - Language barriers
 - Physical disability

Equal justice under law is not merely a caption on the facade of the Supreme Court building; it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists...it is fundamental that justice should be same, in substance and availability, without regard to economic status.

- Justice Lewis F. Powell, Jr.

Why do we need an access to justice commission?

- ATJ commissions serve an umbrella function:
involve an expanded range of stakeholders to
develop meaningful systemic change
- Recognition that the traditional, siloed approach
does not work
- Existing stakeholders have separate, sometimes
competing agendas
 - Bar associations
 - IOLTA programs
 - Judicial branch
 - Legal aid providers
- National ATJ movement allows for regular
communication about initiatives in other states
- New advocacy from a neutral body

Why do we need an access to justice commission?

- Support of the judiciary, especially state supreme courts
 - Conference of Chief Judges
- Support of other national organizations
 - ABA
 - National Center for State Courts (NCSC)
 - National Legal Aid and Defender Association (NLADA)

→ There are now 40 commissions/ATJ entities across the country

Access to justice topics.



The SC Access to Justice Commission

→ Established by order of the SC Supreme Court in 2007 “in recognition of the need to expand access to civil legal assistance for people of low income and modest means in South Carolina”

- Representation from:
 - Supreme Court
 - Circuit, Family Courts; Master-in-Equity
 - Private bar
 - Legal services providers
 - Law schools

The SC Access to Justice Commission

Core objectives:

- Assess the essential **civil legal needs** of South Carolinians of low income and modest means
- Foster **collaboration** among stakeholders and legal service providers
- Support increased **funding** and efficient use of resources to expand access to justice
- Support programs and resources to assist **self-represented litigants**
- Encourage greater voluntary participation by members of the bar in **pro bono** legal service
- Promote **education and outreach** about the gap in civil legal services
- Recommend new **initiatives and technology** to expand civil access to justice

The SC Access to Justice Commission

Recent and ongoing projects:

- Data
 - Justice Gap Report
- Providers
 - SC provider listserv
 - Social media “provider spotlights”
 - Flyer for food banks
- Encouraging pro bono participation
- Renovated website

Have a legal problem? We're here to help!

We can help with:

Issues with **housing**, like evictions, utility cutoffs, and getting necessary repairs

Things affecting your **family**, like divorce, custody or visitation, and domestic abuse

Financial issues, like bankruptcy, debt relief, collections, and loans

Issues related to **healthcare**, like benefits, insurance, or access to basic care

Access to **food**, like getting SNAP benefits

Employment issues, like unemployment, wage claims, or discrimination

Any of these issues that might be related to the **COVID-19 pandemic**

Do I qualify?

If your household income falls within certain guidelines, and you have a civil legal problem we can help with, you will most likely qualify for services

We cannot help with criminal cases; contact your local clerk of court or public defender office if you are charged with a crime

If we can't help you, we will make every effort to refer you to someone who can



South Carolina Bar

For **COVID-19** related questions, call our hotline, at **883-958-2266**

Ask questions online at sc.livelihoodlawyers.org

To be screened for a (free) lawyer, call 1-800-395-3425



South Carolina Legal Services

SCLS is a law firm that provides free legal assistance to low income residents of SC.

Call 1-888-346-5592 or apply online at lawhelp.org/sc/online-intake



oppleseed

FEEDING THE NEED



Types of legal issues.



Civil.

There are dozens of different civil legal problems, including landlord/tenant disputes, foreclosures, employment, health care, and public benefits, and more. If you have one of these problems, you can hire a private attorney, be screened for an attorney from South Carolina Legal Services, request a pro bono attorney, or represent yourself. Click below to find out more about your options.

[Learn more](#)



Criminal.

If you have been charged with a crime, you'll probably want an attorney to represent you. You can hire a private attorney, or be screened for an attorney from a public defender office. Click below for more information about how to find an attorney, as well as help with expungements, collateral consequences, and re-entry into the community after serving a prison sentence.

[Learn more](#)



Family.

Family court cases are civil cases, but the procedures are quite different. Family court issues can include divorce, child custody and visitation, adoptions, juvenile justice, and more. If you have a problem like this, you can hire a private attorney, contact South Carolina Legal Services, request a pro bono attorney, or represent yourself. There are also lots of other organizations that may be able to help.

[Learn more](#)

Access to justice and you*

* Yes, you

→ SC Lawyer's Oath

"I will assist the defenseless or oppressed by ensuring that justice is available to all citizens and will not delay any person's cause for profit or malice"

Access to justice and you

→ SCRPC, Preamble

*“A lawyer, being a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having **special responsibility for the quality of justice**”*

*“As a public citizen, a lawyer should seek improvement of the law, **access to the legal system**, the administration of justice and the quality of service rendered by the legal profession”*

Access to justice and you

→ SCRPC, Preamble

*“A lawyer should be mindful of deficiencies in the administration of justice and of the fact that **the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance.** Therefore, all lawyers should devote professional time and resources and use civic influence to **ensure equal access to our system of justice** for all those who because of economic or social barriers cannot afford or secure adequate legal counsel”*

Access to justice and you

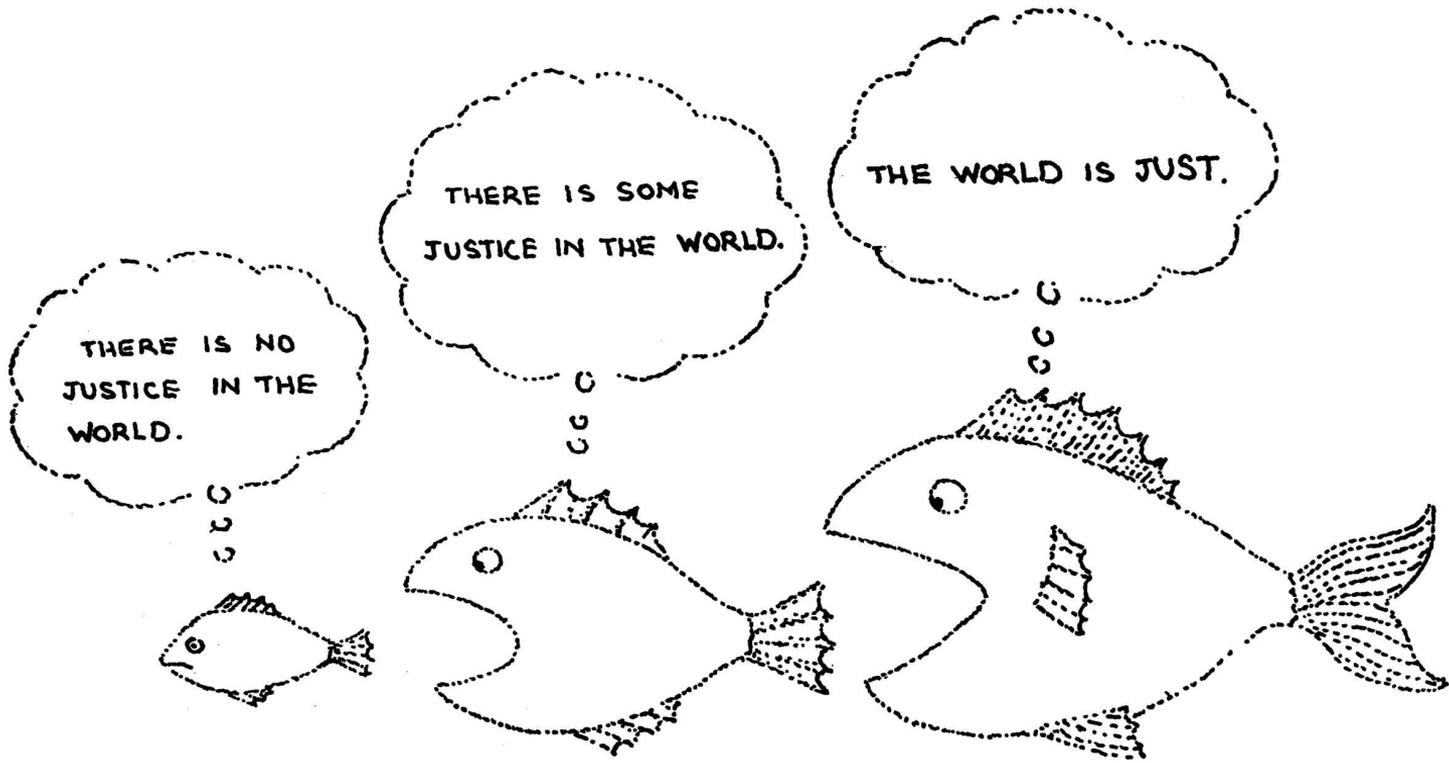
→ SCRPC, Rule 6.1

- “A lawyer should render public interest legal service”
- **No/reduced fee**
 - Persons of limited means
 - Public service or charitable organizations
- **Service in activities** for improving the law, legal system, or legal profession
- **Financial support** for orgs that provide legal services to persons of limited means

Access to justice and you

→ SCRPC, Rule 6.1, Comment 2

“The rights and responsibilities of individuals and organizations in the United States are increasingly defined in legal terms. As a consequence, legal assistance in coping with the web of statutes, rules and regulations is imperative for persons of modest and limited means, as well as for the relatively well to do”



MANKOFF

“Great! What do I do now?”

Pro bono

/,prō 'bônō/

Denoting work undertaken without charge,
especially legal work for a client with low
income

But wait!

Aren't people who can't afford an attorney
served by legal aid?

What does “low income” mean in the United States?

Poverty thresholds -

- Updated annually by the US Census Bureau
- Used for statistical purposes to calculate the number of people living in poverty

→ 42,510,843 people in the US live below the poverty Level (13.4% of population)

Distinguish from *poverty guidelines*, which are used to determine program and benefit eligibility

\$26,370

For a family of four

What does poverty look like in South Carolina?

→ 741,650 people below poverty level

- 240,953 of those people are under 18
- 69,226 of those people are under 5
- 79,828 of those people are over 65

- 14.9% of high school graduates live below the poverty line
- 9.9% of citizens holding an associates degree or who completed some college live below the poverty line

- 8.7% of our civilian labor force live below the poverty line

15.2%

Compare with 13.4% nationally

Civil Legal Services and the Justice Gap

To be eligible for most legal services, an individual or family's income must be at or below 125% of the federal poverty guideline

- “Depth of poverty”
- Income-to-poverty ratio

→ 125% FPL - family is 25% above their poverty guideline

\$32,750

For a family of four

Civil Legal Services and the Justice Gap

One in five Americans (19%) have family incomes below 125% FPL

For SC, that number is 21.7%; **That's 1,030,781 people**

Civil Legal Services and the Justice Gap

With these numbers in mind, consider:

- 7 out of every 10 low-income households have experienced at least one civil legal problem in the past year
- They seek help for only 20% of them
- 1.7 million legal problems brought to LSC-funded orgs in 2017
 - 59% got help of some kind
 - Only 28-38% got enough help to fully address the problem

→ 86% of civil legal problems faced by low-income Americans in a given year receive inadequate or no legal help

Civil Legal Services and the Justice Gap

Over 1 million people in SC are eligible for legal services

Here's who's available to represent them:



Legal Services Attorneys in SC



Resident Active Attorneys in SC



What you didn't know about pro bono

- **Malpractice insurance** - it's provided for you!
 - The SC Bar's pro bono program offers malpractice insurance for pro bono cases (referred by the program or not) - just notify them when you begin representation
- **Case-related costs** - they're covered!
 - The bar's program will also reimburse you for certain costs associated with your pro bono cases - just submit a request
- **There's more to do than take a case**
 - Short on time? Try a clinic! Or, with SC Free Legal Answers you can log on any time, anywhere, and choose to answer questions in your practice area
- **Incentives** - report your hours!
 - Do 25 or more pro bono hours in a year, and get vouchers for free CLEs; do 50 or more and you'll be featured on the Supreme Court Pro Bono Honor Roll

Pro bono goals: For attorneys

- ✓ Carve out time to volunteer
- ✓ Take at least one pro bono case per year
- ✓ Volunteer regularly at a clinic or with Free Legal Answers
- ✓ Advocate for funding for legal services
- ✓ Serve as a trainer
- ✓ Don't wait for the call!

Pro bono goals: For firms

Stu's Views

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"Pro Bono Lawyer of the Year!"
I'd like to thank my law firm--
I couldn't have done it without
your begrudging support.



Race and Access to Justice



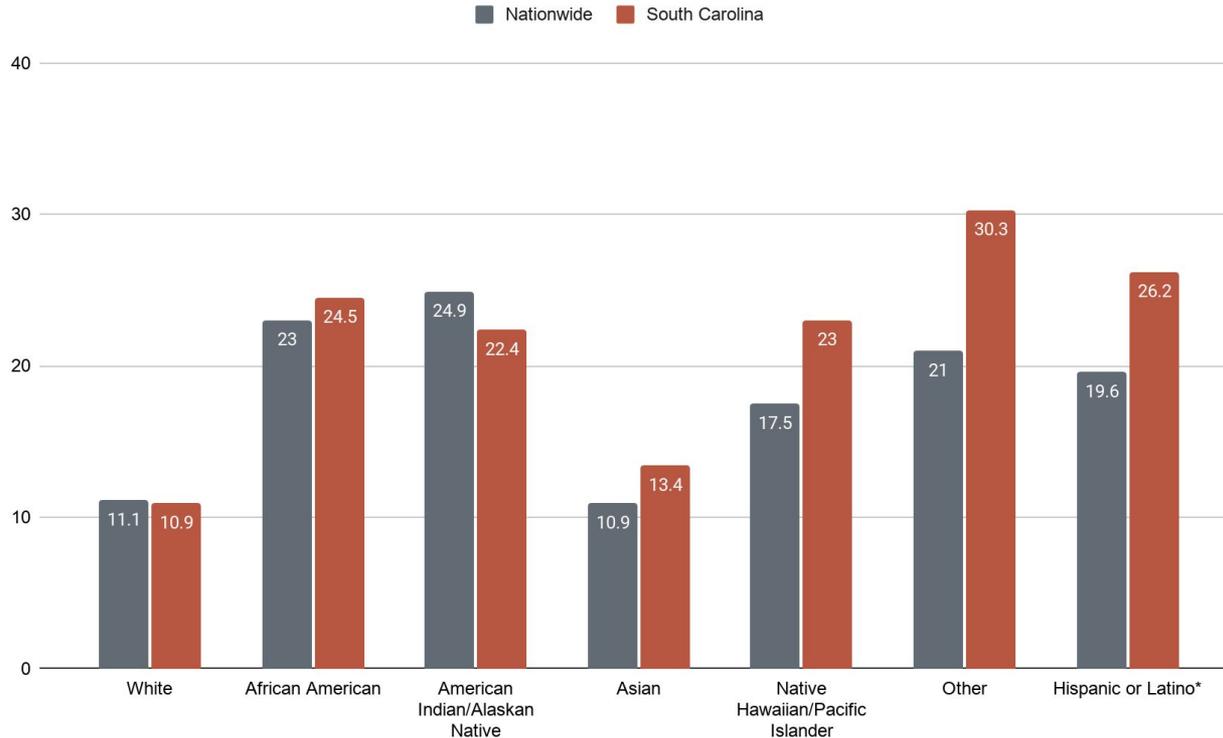
Review: Poverty in SC

- 741,650 people live **below poverty the level** (15.2% of population)
- 1,030,781 South Carolinians are **eligible for legal services** (21.7% of population)
- 86% of civil legal problems faced by low-income Americans in a given year receive **inadequate or no legal help**

How does race affect these numbers?

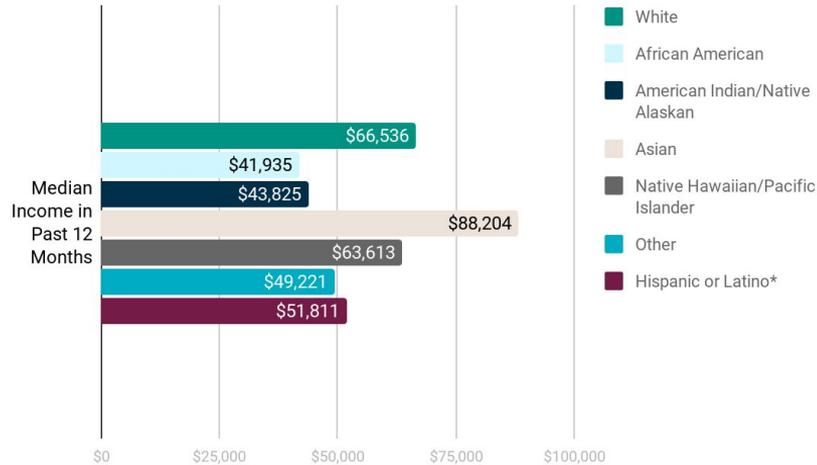
- On average, South Carolinians are poorer than the rest of the country
 - Discrepancies are even more pronounced when you break them down by racial group
- **When comparing nationwide percentages to South Carolina, our within-group poverty levels go up for every racial group EXCEPT Whites and Native Americans**

Percentage of specific populations living in poverty

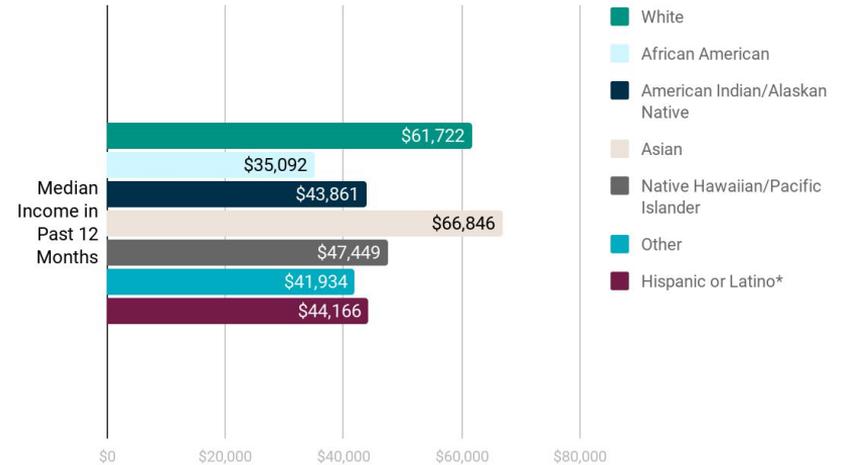


Race and Income Inequality

Nationwide

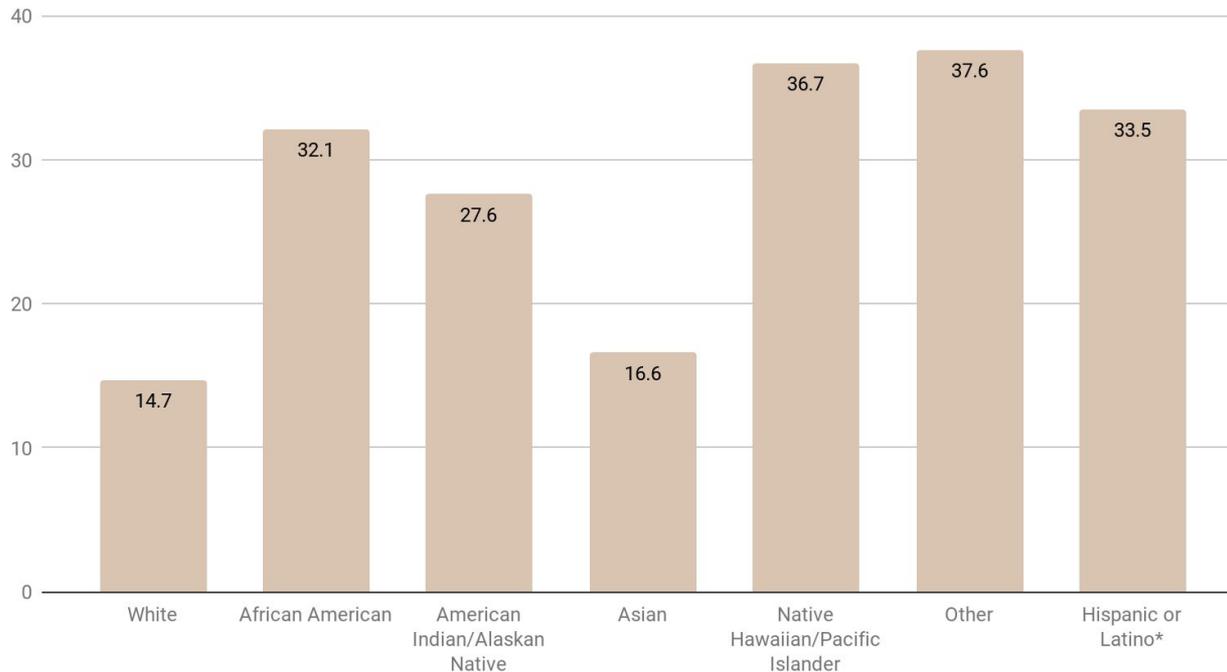


South Carolina

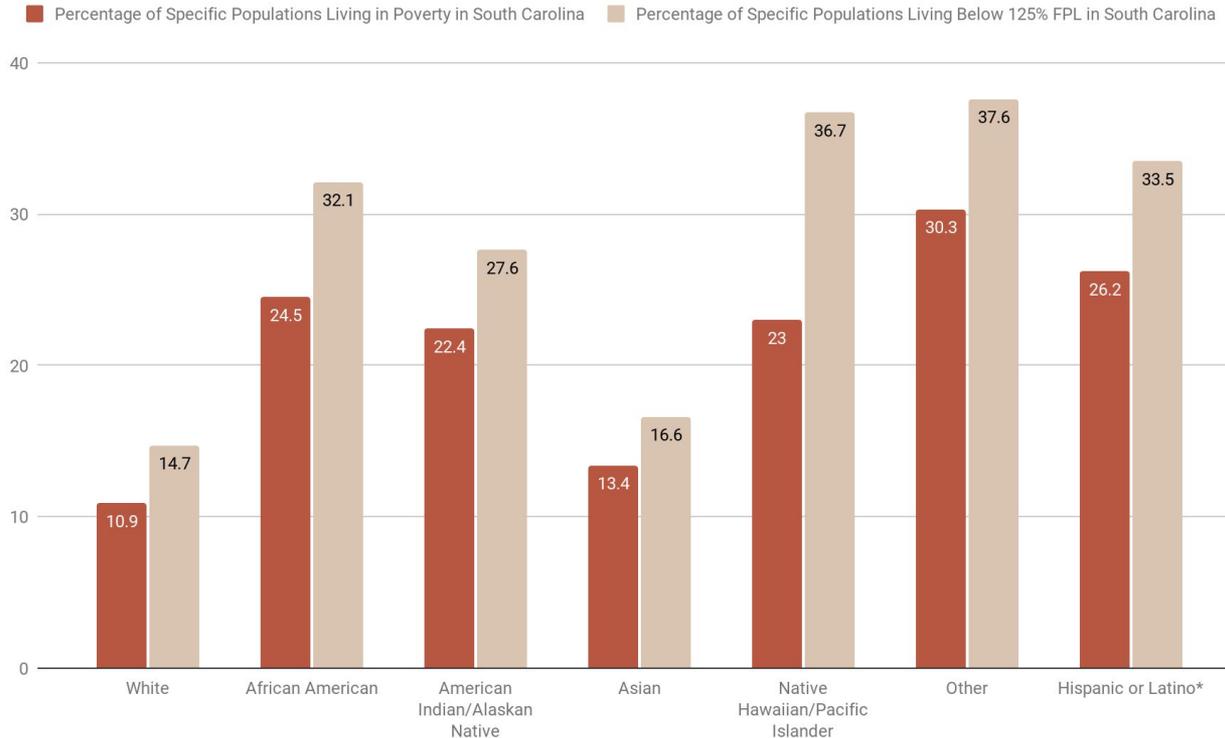


Percentage of specific populations living below 125% FPL in South Carolina

Percentage of Specific Populations Living Below 125% FPL in South Carolina



Number of people “in poverty” vs. number of people living below \$125% FPL



Structural Racism

Employment

- Black unemployment rates have been **consistently 2x higher** than that of Whites for the past 60 years

Education

- Black students are **3x more likely to be suspended** than white students for similar infractions

Wealth

- White families hold 90% of our national wealth; **Black families hold 2.6% of it**

Structural Racism

Criminal Justice

→ Black people make up 12% of the nation's population, but **33% of our prison population**

Healthcare

→ Black mothers are **3.2 times more likely to die** from pregnancy complications

Housing

→ **Redlining and exclusionary zoning** still contribute to the racial wealth gap in the United States

How does race relate to pro bono, legal services, and court services delivery?

Reaching the populations that need help:

Implicit bias

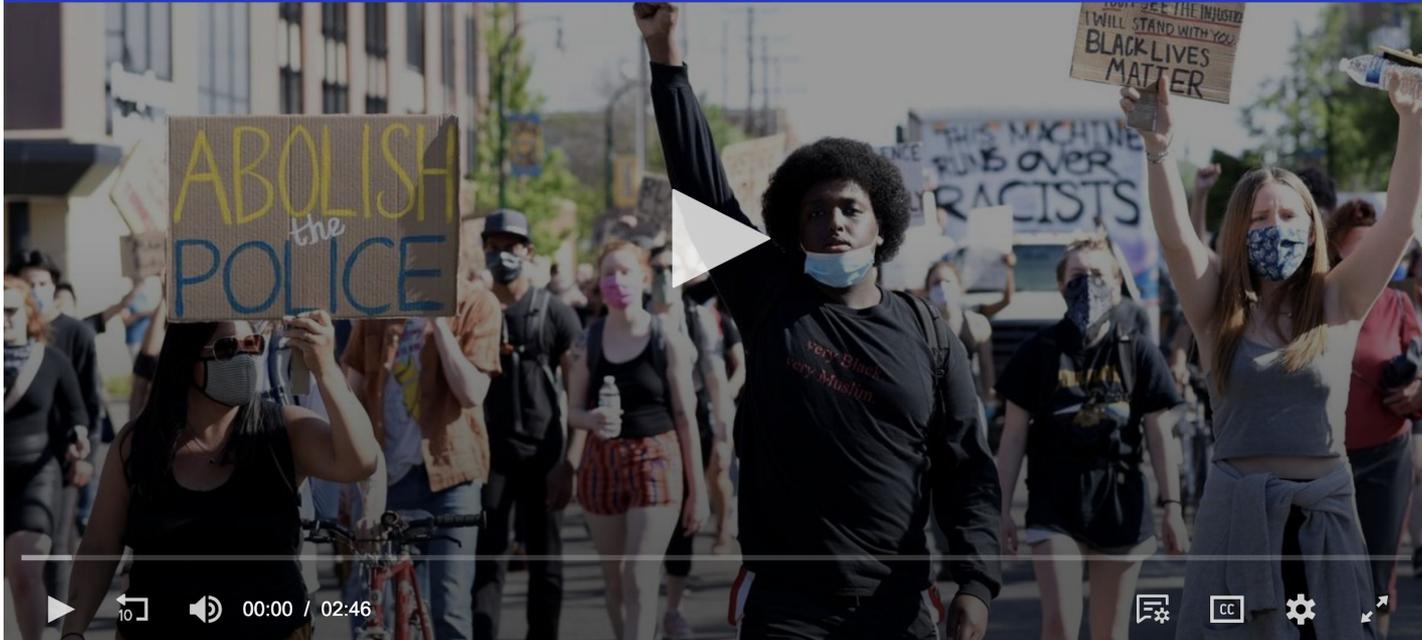
→ Deep-seated attitudes and biases of which a person may be completely unaware

Cultural competence

→ Congruent behaviors, attitudes, and policies that come together to enable us to work effectively in cross-cultural situations

Empathy

→ Capacity to feel or understand what another person is feeling from their perspective; rational + emotional understanding



Clip from PBS Newshour, June 4, 2020: “Coronavirus is a Taste of What Poor Americans Feel Every Day”

More about Access to Justice Commissions:

- https://www.americanbar.org/groups/legal_aid_indigent_defendants/resource_center_for_access_to_justice/atj-commissions/

Explore census data:

- <https://data.census.gov/cedsci/table?q=United%20States>

US Census Report: “Income and Poverty in the United States: 2018”:

- <https://www.census.gov/library/publications/2019/demo/p60-266.html#:~:text=The%20official%20poverty%20rate%20in,14.8%20percent%20to%2011.8%20percent.>

LSC 2017 Justice Gap Report:

- <https://www.lsc.gov/media-center/publications/2017-justice-gap-report>

LSC By the Numbers:

- <https://www.lsc.gov/media-center/publications/numbers>

NCSC's Justice for All Initiative:

- <https://www.ncsc.org/jfa>

Right to counsel:

- https://www.americanbar.org/groups/legal_aid_indigent_defendants/civil_right_to_counsel1/#:~:text=%22Civil%20right%20to%20counsel%22%2C,a%20lawyer%20at%20no%20charge.
- <http://civilrighttocounsel.org/>

Self-Represented Litigation Network:

- <https://www.srln.org/>

Rothstein, Richard (2017). *The Color of Law*. Liveright Publishing.

Desmond, Matthew (2016). *Evicted*. Broadway Books.

- <https://nwlc.org/resources/equal-pay-for-black-women/>
- <https://www.aspeninstitute.org/blog-posts/structural-racism-definition/>
- <https://www.brookings.edu/research/time-for-justice-tackling-race-inequalities-in-health-and-housing/>
- <https://www.urban.org/urban-wire/high-poverty-schools-undermine-education-children-color>
- <https://www.pewresearch.org/fact-tank/2019/04/30/shrinking-gap-between-number-of-blacks-and-whites-in-prison/>
- <https://www.nbcnews.com/health/womens-health/u-s-finally-has-better-maternal-mortality-data-black-mothers-n1125896>
- <https://tcf.org/content/commentary/exclusionary-zoning-continues-racial-segregations-ugly-work/?agreed=1&agreed=1>
- <https://www.nytimes.com/2017/08/24/upshot/how-redlinings-racist-effects-lasting-for-decades.html>
- <https://www.washingtonpost.com/news/wonk/wp/2018/03/28/redlining-was-banned-50-years-ago-its-still-hurting-minorities-today/>
- <https://www.medpagetoday.com/blogs/kevinmd/84362>
- <https://nccc.georgetown.edu/curricula/culturalcompetence.html>
- <https://www.pbs.org/newshour/nation/making-people-aware-of-their-implicit-biases-doesnt-usually-change-minds-but-heres-what-does-work>
- <https://www.washingtonpost.com/outlook/2019/02/22/why-empathy-is-key-dismantling-white-racism/>

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