

Researching

LAW

SPRING 2021

Vol 32 | No 1



Advancing Justice for All: The ABF/JPB Foundation Access to Justice Scholars Program

Advancing Justice for All: The ABF/JPB Foundation Access to Justice Scholars Program

Every year, many Americans confront at least one civil justice problem. Affecting somewhere between half and two-thirds of the population, these problems often pertain to basic needs such as money, housing, health, and employment. When people are unable to resolve these justice problems effectively, the result can be devastating, leading to homelessness, poverty, job loss, and illness. Yet, most of these civil justice problems never make it to a court or receive attention from a legal professional.

Limited knowledge of and access to civil justice has prevented many Americans from addressing everyday problems through the law. People seldom recognize the legal aspects of their problems, and when they do, individuals try to handle them independently without legal intervention. This crisis of access to civil justice also represents a problem of systemic inequality and exclusion. Some groups, such as white people and the wealthy, are consistently more likely to get access than other groups, such as racial minorities and the poor. Over the past year, the COVID-19 pandemic has exacerbated this ongoing access to justice crisis by triggering even more uncertainty and challenge for those seeking solutions to their justice problems.

Meaningful progress on access to justice necessitates a full

understanding of what is currently happening and concrete effective solutions for increasing access. But while relevant access to justice research is present across the United States, it is conducted in many different fields using diverse methodological approaches with little collaboration across disciplines. This has led to a lack of cohesion across academic disciplines. In turn, this disconnect has hindered efforts to apply knowledge gained from scholarship in this subject to the real-world practices and policies that can be put into place to help people solve their civil justice problems.

In order to create and sustain impactful scholarship on access to civil justice, the American Bar Foundation (ABF) received a generous multi-year grant from The JPB Foundation to create the ABF/JPB Access to Justice Scholars

Program. The Access to Justice Scholars Program will help build research infrastructure and attract the next generation of researchers in the field of anti-poverty and access to justice. This program represents the ABF's first time working with The JPB Foundation, a private foundation whose mission is to advance opportunity in the United States through transformational initiatives that empower those living in poverty, enrich and sustain our environment, and enable pioneering medical research.

The Legacy of Access to Justice Scholarship at the ABF

Since the founding of the American Bar Foundation, ABF scholars have been deeply engaged with the fundamental questions of access to justice. Over forty years ago,

ABF scholars conducted one of the first nationally representative legal needs studies. *The Legal Needs of the Public* by Barbara A. Curran and Francis O. Spaulding (1974) was foundational in providing understanding about who experiences civil justice problems. It explored the extent to which people have legal problems, how they use legal services, the kinds of lawyers they seek, and how they select those lawyers. It also reviewed the public's reaction to legal costs and their attitudes towards lawyers and the legal system generally.



REBECCA SANDEFUR, Director, Access to Justice Scholars Program; Faculty Fellow, American Bar Foundation; Professor, Arizona State University

Over a decade ago, ABF Faculty Fellow Rebecca Sandefur founded the ABF's Access to Justice Research Initiative, which allowed the ABF to expand its access to justice research activities. This initiative supports and disseminates empirically grounded research that helps practitioners and scholars understand the state of the public's access to justice and what concrete proposals for increasing access are likely to be most effective. As a part of this program, Sandefur's research has found that most civil justice situations never involve contact with an attorney or a court since people are less likely to consult an attorney about civil problems such as employment, housing, and healthcare. In fact, she found that people often do not think of civil justice problems in legal terms at all but instead think of them as a social or moral problem.

Throughout her twenty years of research and experience, Sandefur has investigated access to civil justice from numerous angles. As an ABF Faculty Fellow, she has examined the delivery and consumption of legal services, the organization of civil legal aid around the nation, the efficacy

of digital legal tools, and how ordinary people think about and try to resolve their legal problems. She is currently a Professor in the T. Denny Sanford School of Social and Family Dynamics at Arizona State University and was awarded the 2018 MacArthur "Genius" grant for her critical access to justice research. Sandefur is now applying this knowledge and experience as Director of the ABF/JPB Foundation Access to Justice Scholars Program.

About the Access to Justice Scholars Program

The ABF/JPB Access to Justice Scholars program helps facilitate the translation of research into practice. The program seeks to generate more effective approaches to access to justice that combat poverty and improve justice for all. It brings together the next generation of access to justice scholars from across the nation from various disciplines, including law, political science, public health, and sociology, to obtain new knowledge and establish a theoretical and empirical understanding of what is currently happening with access to civil justice. The program will support

the scholars’ research, mentor their progress, and build intellectual relationships within the burgeoning access to justice field.

“We have been trying to provide Americans access to justice in exactly the same way for over sixty years, and we can be confident that that is not working,” said Sandefur. “These scholars are the next generation of people figuring out what would work and how to do this better than we have.”

In June 2020, the ABF/JPB Access to Justice Scholars Program welcomed the first cohort of faculty scholars. The six scholars are currently serving a fifteen-month term ending in August 2021, which overlaps with the next cohort of six faculty scholars in the summer of 2021. Due to the COVID-19 pandemic, the program is taking place through virtual meetings. An advisory board comprised of scholars and professionals working in the justice and anti-poverty fields participated in selecting the Scholars.

The six scholars were selected from the pool of applicants based on their proposed research projects. They come from diverse academic backgrounds, bringing theoretical and methodological tools from law, sociology, medicine, and design to bear on critical access to justice and anti-poverty issues. Their proposed projects showed clear promise along two dimensions: the production of social scientific discoveries relevant to understanding access to justice, and the production of knowledge that can inform real-world policy and practice.

“The purpose of the program is to produce academically rigorous,

intellectually serious scholarship that is also actionable,” said Sandefur. “This kind of problem-focused research is better when it is grounded in the theories and methods that come out of different disciplines like public health, sociology or political science.”

The program provides participants with a community of scholars who are interested in and are engaged in helping them push forward their research. An advisory committee consisting of academics, practitioners, and opinion leaders provides direction about translating, disseminating, and ensuring actionability for the scholar’s research findings.

Each scholar is individually supported throughout their time at the program by two personal mentors. The first mentor is someone within the discipline of the faculty scholar that can provide them with advice on how to develop projects that speak to the core civil justice questions in their discipline. The second mentor helps the scholar connect with people who can use their research and understand why it is important to certain audiences. Both mentors provide feedback on the scholar’s work. Mentors include judges, legal services providers, law school clinicians, and a range of academics which are chosen based on the scholar’s discipline and research topic.

By the end of their term, participants will submit at least one article from their research project to a peer-reviewed journal outlet, and at least one proposal for research funding to a funding source external to their home institution.

Given that research topics and disciplines will vary depending on the next cohorts of faculty scholars, Sandefur encourages other academics, experts, or scholars to get involved.

“If somebody thinks they would like to be a mentor for this program or they think they know of a scholar who would be very good for it, they should absolutely be reaching out to us,” said Sandefur.

Meet the Faculty Scholars

The first cohort of Access to Justice Scholars come to the program from various disciplines, including sociology, law, and healthcare. With a diverse set of viewpoints and methods, the scholars’ research integrates work on a variety of topics.

Each of the scholars described below brings a wide range of tools to bear on the program’s core mission. They are currently working on projects that will help them understand how people seek legal help on the internet, examine how automated systems will impact access to justice, explore legal services for medically complex children and their parents, and investigate who immigration lawyers are and how it impacts removal proceedings.

“Most of these scholars are in the early parts of their careers. They are embarking on paths that can be very fruitful and shape their home disciplines,” said Sandefur.

“There is a great synergy among them. They meet every month to talk about work in progress, and they learn a lot from each other,” she added.

Margaret Hagan



Margaret Hagan is the Director of the Legal Design Lab at Stanford University and a lecturer in the Institute of Design. She holds a J.D. from Stanford Law School, a DPhil from Queen’s University Belfast, and an M.A. from Central European University. She specializes in the application of human-centered design to the legal system, including the development of new public interest technology, legal visuals, and policy design.

Margaret Hagan is the Director of the Legal Design Lab at Stanford University and a lecturer in the Institute of Design. She holds a J.D. from Stanford Law School, a DPhil from Queen’s University Belfast, and an M.A. from Central European University. She specializes in the application of human-centered design to the legal system, including the development of new public interest technology, legal visuals, and policy design.

Hagan’s research focuses on the development and evaluation of new interventions to make the legal system more accessible. Her scholarship has found that while there has been a growing interest among legal practitioners in using the internet to engage the public with legal help, studies are limited on how the public searches for legal assistance online, what they are finding, and what works for them.

Her current project uses datasets from online legal help intake forms and forums, as well as search engine audits, to understand more about how people seek legal help on the internet. This will help her understand what kinds of strategies can most effectively engage the public with legal help. Her goal is to use her research to provide better data and methods to public interest leaders including judges, court administrators, legal aid lawyers, and legal technologists, who seek to offer the public online legal services. The project will provide new information that can help professionals learn about who their potential clients are, how to connect with them, and how to serve them online.

“I’m excited about developing new methods to harness big and small datasets to understand how people use the justice system or what can help them participate meaningfully in it,” said Hagan.

She notes that one critical component that the Access to Justice Scholars program brings to her research is the context and understanding of real-world impacts.

“I’m excited about developing new methods to harness big and small datasets to understand how people use the justice system or what can help them participate meaningfully in it.”

“I have been thrilled to engage with so many leaders in legal technology, sociology, ethics, and civil procedure. My mentor Tanina Rostain sets a great example of both engaging with new technology methods to benefit access to justice, but also critiquing the harms that over-hyped technology products might result in,” Hagan said.

“It’s easy after going to law school and working on justice projects for a decade to be hyperaware of legal dimensions of people’s lives. But the insights from my mentors and my fellow scholars help bring this view back to real people’s experiences,” she added.



Rebecca Johnson



Rebecca Johnson is an Assistant Professor at Dartmouth College in Quantitative Social Science. She received her Ph.D. in Demography, Sociology, and Social Policy from Princeton University. She studies how law and ethics shape the ways that social service bureaucracies ration scarce resources. Her scholarship has focused on rationing in U.S. school districts, investigating how school districts with tight budgets struggle with legal pressure.

Johnson’s current project investigates how K–12 school districts grapple with ethical dilemmas about which students to support as they navigate legal mandates that conflict with fiscal realities. Districts must meet state and federal requirements to prioritize certain categories of students, all while preventing costs from influencing their decisions under limited budgets. More specifically, her research focuses on both the budgetary pressures that districts and schools face and the tools within the civil justice system that parents and advocates use when they feel the district has treated a student unfairly in resource allocation or other decisions.

From a policy perspective, Johnson’s goal is to highlight that there are no easy answers to questions about school budgets. Her research has found that districts and administrators are often doing the best with what they have amidst tight state funding allocations. Still, parents and advocates find themselves rightfully frustrated when they encounter what seems like many hurdles to get appropriate help for students with disabilities and other needs.

“There’s a huge value in having a close-knit cohort of scholars working in the civil access to justice space.”

To support her work, one of Johnson’s mentors is ABF Research Professor Susan Shapiro, who is an expert in social construction, social organization, and social control of fiduciary or trust relationships. Her policy and practice mentor is Alison Paul, the Executive Director of the Montana Legal Services Association. According to Johnson, the program has

benefitted her work by providing mentors who give insight into the circumstances and context surrounding her work.

“Susan has been incredible in helping me home in on the intellectual questions at the core of my work,” said Johnson. “And my policy and practice mentor has helped me understand the legal and political landscape around disability rights enforcement in schools.”

Johnson credits the program with demonstrating the significance of cross-disciplinary collaboration in access to justice research.

“There’s a huge value in having a close-knit cohort of scholars working in the civil access to justice space,” said Johnson. “The fellowship has been really helpful in showing us that there’s a ‘home’ for this type of research within and beyond our home disciplines and a community of people who care about similar issues.”



Sarah Lageson



Sarah Lageson is an Assistant Professor at Rutgers University-Newark School of Criminal Justice. She is a sociologist who studies criminal justice, law, privacy, surveillance, and tech. Her research examines the growth of online crime data and criminal records that create new forms of “digital punishment.” She found that criminal records are used against people in a variety of non-criminal legal system settings, including employment and housing.

Lageson’s current project studies how technology might help ease the expungement process in civil courts, which is often a confusing process. Across the United States, advocates and policymakers are working in earnest to pass ‘Clean Slate’ legislation, designed to seal or expunge criminal records and deliver civil justice for those who have been barred from employment and housing due to their records. Lageson is studying the development and implementation of Clean Slate, with a focus on the technical, cultural, and legal implications of these data-driven justice policies. The project asks how automated systems will change our understanding of access to justice, the perpetuation of bias and inequality, and effective legal outcomes.

“I study the intersection between civil and criminal justice through criminal record policy,” said Lageson. “One in three Americans have some type of criminal record, and these records are used against them.”

“While expungement is gaining popularity in public policy circles, the process is still quite difficult and confusing for people leading to large uptake gaps. I am studying how technology might help ease this process and whether we might see any unintended consequences from automated approaches to justice,” she added.

“The ABF has long been a source for me to learn about cutting-edge research in law and society. I knew that taking part in an ABF program would allow me to meet and learn from scholars studying important access to justice topics.”

Lageson was attracted to the Access to Justice Scholars program because of the ABF’s hallmark sociolegal contributions and scholarship. The program allows her the opportunity to meet and learn from other scholars to help her make connections between her own work and other areas spanning healthcare, education, civil law, and technology.

“The ABF has long been a source for me to learn about cutting-edge research in law and society. I knew that taking part in an ABF program would allow me to meet and learn from scholars studying important access to justice topics,” said Lageson. “Building this new network of scholars whose work I have long admired is an incredible gift.”



Erin Paquette



Erin Paquette, M.D., J.D., Master of Bioethics, is Assistant Professor of Pediatrics at Northwestern University Feinberg School of Medicine, Associate Chair of the Ethics Advisory Board, Associate Director for Ethics Advocacy, and Co-Chair of the Health Equity Task Force at the Ann & Robert H. Lurie Children’s Hospital of Chicago. As a critical care physician, she provides care for critically ill children.

Paquette’s scholarly work addresses health disparities and barriers to social justice. She focuses this within three areas: 1) Examining the role for medical-legal partnerships in addressing social determinants of health; 2) Exploring ethical and legal issues related to brain death; and 3) As a Pediatric Critical Care and Trauma Scientist Scholar, assessing barriers to research participation by seriously ill children.

Her current research project evaluates the use of medical-legal partnerships (MLPs) to address social and structural influencers of health. MLPs integrate legal services into the healthcare settings with the knowledge that social influences of health, such as unmet legal needs, can negatively impact health outcomes. The most common health-harming legal needs managed by MLPs include income, housing and utilities, education and employment, legal status, and personal and family stability. Although providing legal services to patients to address these unmet legal needs would seemingly improve their health outcomes, few studies have described or quantified the impact that MLPs have had on patient outcomes.

“Peer learning is a definitive strength of the program, in the context of expert guidance of program leaders.”

“MLPs are the point of entry to the justice system for many patients and families who otherwise would not have access to legal assistance, and who may not be aware that their situation has potential legal remedies,” said Paquette.

Paquette’s research goal is to learn whether the system has a perceived or actual impact on improving health outcomes and whether it broadens awareness of legal approaches to issues that have the potential to negatively impact health. There is a critical need for more outcomes research to establish MLPs as an evidence-based intervention and an effective health delivery model to minimize health disparities and improve equity.

Paquette credits the Access to Justice Scholars program with providing her with the critical mentorship necessary to guide her research. Her two mentors include a practicing attorney within a medical-legal partnership and a sociologist with extensive experience in the impact of law on social issues.

“The program has been invaluable to learn with and from colleagues,” said Paquette. “Peer learning is a definitive strength of the program, in the context of expert guidance of program leaders.”



Emily Ryo



Emily Ryo is a professor of law and sociology at the USC Gould School of Law. She received a J.D. from Harvard Law School and a Ph.D. in Sociology from Stanford University. Her research focuses on immigration enforcement, criminal justice, legal attitudes, legal noncompliance, and access to justice. She approaches these issues through innovative interdisciplinary lenses, using diverse quantitative and qualitative methods.

Ryo’s current research project seeks to advance a new and broader understanding of barriers to access to justice for immigrants in removal proceedings. The U.S. government initiated over 500,000 new removal proceedings in U.S. immigration courts in fiscal year 2019 alone. This represents more than a five-fold increase in the number of new removal proceedings filed since 1992. Removal proceedings are not only notable in terms of their growing numbers but also in terms of their extraordinarily high stakes. Yet research and public knowledge about who immigration lawyers and immigration judges are, and how the two sets of legal actors interact to bring about case outcomes in removal proceedings remain relatively limited.

“We are a very diverse group of scholars who work in varying disciplines... Yet, we share the common purpose of using our research to advance access to civil justice.”

With this project, Ryo hopes to highlight the gap between the demand for and supply of legal services for immigrants facing removal proceedings and investigate how individual attributes of judges and decisional contexts moderate the effect of legal representation on case outcomes in removal proceedings.

This project will address the following key questions: How have immigration lawyers’ demographic profiles, specializations, practice settings, and geographic locations shifted over time relative to the changing population of immigrants in removal proceedings and their legal needs? Does the impact of legal representation on case outcomes

vary across immigration judges, and if so, which judge characteristics moderate the effect of legal representation on case outcomes? This project will employ theoretically grounded and rigorous empirical analyses to advance a comprehensive understanding of who immigration lawyers are and the contingent nature of their impact on removal proceedings.

Ryo credits the Access to Justice Scholars Program with the support she needed to improve and guide her project.

“The feedback that I have received from the other scholars and co-fellows has been extremely helpful in guiding my project,” said Ryo. “We are a very diverse group of scholars who work in varying disciplines, which means the substantive and methodological focus of our respective projects are very different. Yet, we share the common purpose of using our research to advance access to civil justice.”



Kathryne M. Young



Kathryne M. Young, J.D., Ph.D., is an Assistant Professor of Sociology at the University of Massachusetts, Amherst. She is a sociologist and legal scholar whose work spans the civil and criminal justice systems, focusing on the social mechanisms that maintain inequality. Young’s current areas of research include access to justice, legal consciousness, criminal procedure, parole decision-making, and legal education. Her work has been cited by the United States Supreme Court and the Washington State Supreme Court and has appeared in numerous journals, including *Law & Society Review*, *Social Forces*, and *Harvard Law Review*.

Her research for the program focuses on how different groups of people conceptualize their justice problems. Young’s research will shed new light on the U.S. access to justice crisis by uniting theoretical questions at the core of sociolegal studies and applied questions at the core of access to justice research. Her investigation of the relationship between legal consciousness and access to justice will help scholars understand the social sources of variation in how people think about the law, and help policymakers create solutions that approach access to justice challenges from the perspective of the everyday people who experience them.

“While we know a lot about which people experience which civil justice problems, we know less about the social sources of variation,” said Young. “My study will look at how different groups of people conceptualize their justice problems, what actions they take, and how these factors vary from person to person. My hope is that this will allow us to design justice solutions that match how people actually think about their problems.”

“Getting to be part of the program is making me a better scholar...and it is exciting and humbling to exchange ideas with other scholars.”

Her two-part project will investigate everyday people’s legal consciousness—their beliefs and understandings of the law—around seven key civil justice problems. A nationally representative survey will examine connections between the problem-solving routes people consider and social

characteristics such as race and class. Additionally, interviews with a broad cross-section of people experiencing these problems will provide an in-depth, longitudinal picture of how different people grapple with access to justice challenges.

Young’s mentors include Susan Silbey, a scholar of legal consciousness, and Judge Dina Fein, who has spent years working on access to justice in the state of Massachusetts.

“My mentors have been extraordinarily helpful. One of the best parts of the program is the opportunity to connect with both a policy mentor and an academic mentor. It is a wonderful balance that helps improve the theoretical framing and methodological approach while ensuring that it is designed to have on-the-ground relevance as well,” said Young.

Beyond her two mentors, Young also notes that the diverse community of scholars has been a valuable part of the program.

“The most crucial part of the program has been getting to be part of an intellectual community of other scholars passionate about access to justice,” said Young. “Getting to be part of the program is making me a better scholar and a better thinker, and it is exciting and humbling to exchange ideas with other scholars.”



“If you want to understand access to civil justice better and produce knowledge that can help make the world a better place, we need a bigger community of people who are doing this kind of work. This program provides an amazing opportunity to help grow that community.”

Envisioning the Future of Access to Justice

Although the Access to Justice Scholars program is still in its early

stages, there is immense opportunity and promise. The six early career researchers in the first cohort of Access to Justice Scholars each bring a wide range of tools to bear on the program’s core mission. Their research projects illuminate an array of critical access to justice issues. During the COVID-19 pandemic, these issues have only become clearer, and the need to address them all the more urgent.

By increasing the cadre of exceptional access to justice researchers, especially from underrepresented communities, this program will produce rigorous scholarship on access to justice and its role in reducing poverty. The scholars will develop a sustained identity with the Access to Justice

program and invest in the creation of a pipeline connecting their scholarship to policy and practice. This will result in the increased recognition for the access to justice field and its role in alleviating poverty and resolving problems that plague low- and moderate-income people and their communities.

“It’s a very small community of researchers in the U.S who work on access to civil justice,” said Sandefur. “If you want to understand access to civil justice better and produce knowledge that can help make the world a better place, we need a bigger community of people who are doing this kind of work. This program provides an amazing opportunity to help grow that community.”

About The JPB Foundation

The JPB Foundation is a private foundation whose mission is to advance opportunity in the United States through transformational initiatives that empower those living in poverty, enrich and sustain our environment, and enable pioneering medical research.



Researching

SPRING 2021

Vol 32 | No 1

LAW



PRESIDENT

E. Thomas Sullivan

EXECUTIVE DIRECTOR

Ajay K. Mehrotra

COPY EDITOR

Debby Hernandez

DESIGNER

Weiher Creative

CONTACT

Email: dhernandez@abfn.org

Phone: 312.988.6546

americanbarfoundation.org

©2021 American Bar Foundation. All rights reserved.

ABF American Bar Foundation
EXPANDING KNOWLEDGE • ADVANCING JUSTICE

750 North Lake Shore Drive
Chicago, IL 60611

Non-Profit Org.
U.S. Postage
PAID
American Bar
Foundation
PERMIT NO. 7011