



---

GW Law Faculty Publications & Other Works

Faculty Scholarship

---

2023

## An Intersectional Examination of U.S. Civil Justice Problems

Kathryne M. Young

*The George Washington University Law School*

Katie Billings

*University of Massachusetts Amherst*

Follow this and additional works at: [https://scholarship.law.gwu.edu/faculty\\_publications](https://scholarship.law.gwu.edu/faculty_publications)



Part of the [Law Commons](#)

---

### Recommended Citation

Young, Kathryne M. and Billings, Katie, "An Intersectional Examination of U.S. Civil Justice Problems" (2023). *GW Law Faculty Publications & Other Works*. 1709.

[https://scholarship.law.gwu.edu/faculty\\_publications/1709](https://scholarship.law.gwu.edu/faculty_publications/1709)

This Article is brought to you for free and open access by the Faculty Scholarship at Scholarly Commons. It has been accepted for inclusion in GW Law Faculty Publications & Other Works by an authorized administrator of Scholarly Commons. For more information, please contact [spagel@law.gwu.edu](mailto:spagel@law.gwu.edu).

5-2023

## An Intersectional Examination of U.S. Civil Justice Problems

Kathryne M. Young

*George Washington University Law School, kyoung2@law.gwu.edu*

Katie R. Billings

*University of Massachusetts, Amherst, krbillings@umass.edu*

Follow this and additional works at: <https://dc.law.utah.edu/ulr>



Part of the [Civil Rights and Discrimination Commons](#), and the [Law and Society Commons](#)

---

### Recommended Citation

Kathryne M. Young and Katie R. Billings, *An Intersectional Examination of U.S. Civil Justice Problems*, 2023 ULR 487 (2023). DOI: <https://doi.org/10.26054/0d-zv1c-rh2z>

This Article is brought to you for free and open access by Utah Law Digital Commons. It has been accepted for inclusion in Utah Law Review by an authorized editor of Utah Law Digital Commons. For more information, please contact [valeri.craigle@law.utah.edu](mailto:valeri.craigle@law.utah.edu).

# AN INTERSECTIONAL EXAMINATION OF U.S. CIVIL JUSTICE PROBLEMS

Kathryne M. Young\* & Katie R. Billings\*\*

## *Abstract*

*Millions of Americans face civil justice problems each year, and most of these problems never make it to court, let alone to a legal expert. Although research has established that race and class are associated with a person's chance of experiencing a civil justice problem, detailed intersectional examinations of everyday people's justice experiences are largely absent. A more in-depth empirical understanding of the access to justice crisis can equip lawyers, policymakers, and other designers of justice interventions to create higher-impact, more efficient, and better-targeted programs to meet the justice needs of everyday people.*

*This Article fills a critical gap in the access to justice research. Using data from a representative sample of over 3,600 Americans, we conduct a granular analysis of the factors associated with the most common civil justice problems in the United States. We illuminate the scope of inequities in everyday legal experiences, point to key paths of legal and policy intervention, and show the importance of intersectional factors in understanding diverse needs for access to justice solutions.*

*In addition to investigating how gender, race, age, and class shape people's chances of facing a civil justice problem, we investigate several less-examined characteristics: queerness, disability, rurality, parental status, and experiences of trauma. These identities turn out to be significantly correlated with civil justice needs as well—independent from,*

---

\* © 2023 Kathryne M. Young, J.D., PhD, Associate Professor, the George Washington University Law School; Faculty Affiliate, American Bar Foundation. The authors thank Lois Ahrens, Matthew Burnett, Anna Carpenter, Elizabeth Chambliss, Liz Gaudet, Alyx Mark, Dayna Bowen Matthew, Ruth Ozeki, Emily Taylor Poppe, Tanina Rostain, Rebecca Sandefur, Susan Silbey, Michele Statz, and Jessica Steinberg for thoughtful comments, feedback, and conversations that shaped this Article. Access to justice workshops convened by the ABF/JPB Foundation Access to Justice Scholars Program at the American Bar Foundation and sponsored by the American Bar Foundation, Arizona State University, and Georgetown Law School were crucial to the formulation of our arguments. This research was supported financially and/or logistically by the National Science Foundation, the ABF/JPB Foundation Access to Justice Scholars Program, the Institute for Social Science Research at the University of Massachusetts, Amherst, the Sociology Department at the University of Massachusetts, Amherst, and the George Washington University Law School. George Washington University law students Sara Hodgkins, Kit Rice, Samia Syed, and Cindy Vong provided helpful edits. We are also grateful to the editors and staff of the *Utah Law Review*.

\*\* © 2023 Katie R. Billings, PhD Candidate, Sociology Department, University of Massachusetts, Amherst.

and in addition to, race, class, and gender. We show that the kinds of civil justice problems vulnerable populations face are not always intuitive and often transcend people's status as members of a particular population.

We also use predicted probabilities to reveal enormous disparities in civil justice problems within groups that extant research has generally treated as monolithic—for example, showing that accounting for other identities and experiences can predict whether a low-income Black American has a 6% chance or a 45% chance of facing a family structure problem in the past year.

To shrink the U.S. civil justice gap, we need a more detailed picture of the landscape of civil justice problems experienced by everyday Americans. This Article provides that picture and is intended to serve as a springboard for access to justice policy reform.

#### TABLE OF CONTENTS

INTRODUCTION: THE MAGNITUDE OF THE JUSTICE GAP.....	489
I. EVERYDAY AMERICANS' CIVIL JUSTICE PROBLEMS.....	490
A. <i>Defining Access to Justice: Justiciable Problems, Cases, and Legal Needs</i> .....	491
B. <i>The Known Magnitude of the U.S. Justice Gap: Extant Studies of Everyday Civil Justice Problems</i> .....	495
C. <i>The Unknown Magnitude of the U.S. Justice Gap: What We Still Don't Know About Civil Justice Needs</i> .....	497
II. THE PRESENT STUDY.....	499
A. <i>Sampling Procedures</i> .....	502
B. <i>Survey Design</i> .....	502
C. <i>Data Analysis</i> .....	505
III. RESULTS.....	505
A. <i>Overall Prevalence of Civil Justice Problems</i> .....	506
B. <i>Associations Between Respondent Characteristics and Experiences of Justice Problems</i> .....	508
C. <i>Effects of Multiple Characteristics on a Person's Chance of Experiencing a Justice Problem</i> .....	512
D. <i>Exploring the Data with Individualized Predictions</i> .....	515
IV. DISCUSSION: THE BREADTH OF CIVIL JUSTICE NEEDS.....	520
A. <i>The Importance of Intersectionality in Understanding the Distribution of Civil Justice Problems</i> .....	520
B. <i>Deepening Our Understanding of Known Axes of Civil Justice Inequality</i> .....	522
1. <i>Race</i> .....	522
2. <i>Class</i> .....	523
3. <i>Age and Gender</i> .....	524
C. <i>Additional Demographic Factors Associated with Civil Justice Problems</i> .....	526
1. <i>LGBTQ+ Identity</i> .....	526

2. Disability.....	528
3. Rurality .....	530
4. Parent of a Child Under Age 18.....	531
D. Past Trauma and Civil Justice Problems.....	532
1. Arrest.....	533
2. Domestic Violence and Sexual Assault.....	535
CONCLUSION.....	538
APPENDIX.....	541

#### INTRODUCTION: THE MAGNITUDE OF THE JUSTICE GAP

The cost of the U.S. civil justice gap goes well beyond its economic toll. Attempting to resolve their civil legal problems—whether or not they recognize these problems as legal<sup>1</sup>—costs Americans an inordinate amount of time (searching for information, traveling to courts or offices, making phone calls, gathering evidence)<sup>2</sup> as well as stress and negative emotions.<sup>3</sup> These costs beget additional consequences, such as mental and physical health problems,<sup>4</sup> which fall disproportionately on people who already shoulder greater burdens associated with social and economic disadvantage—namely, people of color and poorer people.<sup>5</sup> But lack of access to civil justice is not a problem that befalls only certain segments of society. Middle-income Americans encounter civil justice problems at high rates as well, and like their less financially stable counterparts, middle-income Americans rarely seek legal assistance.<sup>6</sup>

<sup>1</sup> As Rebecca Sandefur’s work has shown in depth, and as we will elaborate upon, Americans do not usually identify their civil justice challenges as “legal” problems; this is the single largest barrier to seeking legal help. Rebecca L. Sandefur, *The Importance of Doing Nothing: Everyday Problems and Responses of Inaction*, in TRANSFORMING LIVES: LAW AND SOCIAL PROCESS 112 (Pascoe Pleasence, Alexy Buck & Nigel J. Balmer eds., 2007); REBECCA L. SANDEFUR, ACCESSING JUSTICE IN THE CONTEMPORARY USA: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY 14 (2014) [hereinafter SANDEFUR, ACCESSING JUSTICE], [https://www.americanbarfoundation.org/uploads/cms/documents/sandefur\\_accessing\\_justice\\_in\\_the\\_contemporary\\_usa\\_aug\\_2014.pdf](https://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa_aug_2014.pdf) [<https://perma.cc/75Z7-RSA3>].

<sup>2</sup> Indeed, much of this time is spent shouldering “administrative burden”—the outsourcing of logistical and administrative work onto everyday people who need the assistance in question. *See generally, e.g.*, PAMELA HERD & DONALD P. MOYNIHAN, ADMINISTRATIVE BURDEN: POLICYMAKING BY OTHER MEANS (2019).

<sup>3</sup> HAGUE INST. FOR INNOVATION OF L. & INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 22, 69 (2021) [hereinafter IAALS 2021], <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf> [<https://perma.cc/P6VU-VL82>].

<sup>4</sup> Hazel Genn, *When Law Is Good for Your Health: Mitigating the Social Determinants of Health Through Access to Justice*, 72 CURRENT LEGAL PROBS. 159, 201–02 (2019).

<sup>5</sup> SANDEFUR, ACCESSING JUSTICE, *supra* note 1, at 7–10; IAALS 2021, *supra* note 3, at 195.

<sup>6</sup> *See* SANDEFUR, ACCESSING JUSTICE, *supra* note 1, at 3–9.

Yet, apart from the major social axes of race, gender, class, and age, we know surprisingly little about the life conditions, personal experiences, and identities that make a person more likely to encounter a particular civil justice problem. This dearth of knowledge makes it difficult to target the populations in greatest need of justice interventions with any degree of precision.

In this Article, we draw on unprecedentedly detailed data about people's encounters with common civil justice problems to understand the patterns in their experiences. In addition to looking at race, gender, class, and age, we examine axes of inequality that comprise key parts of social life but have not been a systematic part of the access to justice conversation, including queer identity, physical disability, rurality, and parenting a minor child. We also investigate the effects of experiencing a traumatic event such as sexual assault, domestic violence, or arrest. In addition to examining how identities and experiences intersect with civil justice problems on their own, we examine *intersectionalities*—the confluence of multiple identities—to create a detailed picture of everyday people's civil justice needs.

In Part I, we explain how access to justice has been variously defined and discuss the research implications of these understandings. We then outline five key empirical studies from the last decade that examine the distribution of civil justice problems. We describe these studies' findings and omissions. In Part II, we describe our empirical design of the instant study, including data sources, representativeness, and our analytical approach. In Part III, we report results from our analyses, and in Part IV, we discuss the results' meanings for research, policy, and practice.

### I. EVERYDAY AMERICANS' CIVIL JUSTICE PROBLEMS

Civil justice challenges are staggeringly widespread. At any given time, roughly half of the households in the United States contain one or more people experiencing a problem that is actionable under civil law.<sup>7</sup> Indeed, the typical American spends many total years of life embroiled in civil justice problems and their attendant challenges.<sup>8</sup> A person aged 18 to 34 can expect that “on average, 44% of the rest of their lives will be overshadowed by these problems.”<sup>9</sup> The onset of the COVID-19 pandemic has increased civil justice needs considerably, especially those associated with money and employment.<sup>10</sup> Nor are these problems short-lived inconveniences. “Nearly half of all Americans who experience a legal problem experience negative consequences as a result,”<sup>11</sup> from deteriorating physical health

---

<sup>7</sup> AM. BAR FOUND., CIVIL JUSTICE PROBLEMS ARE COMMON, WIDESPREAD, AND RARELY TAKEN TO A LAWYER, (Oct. 19, 2016), [http://www.americanbarfoundation.org/uploads/cms/documents/abf\\_research\\_brief\\_access\\_to\\_justice\\_v3.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/abf_research_brief_access_to_justice_v3.pdf) [<https://perma.cc/5N86-TJJN>] (citing and summarizing several pieces of research by Rebecca L. Sandefur).

<sup>8</sup> Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 776 (2021).

<sup>9</sup> *Id.* at 779.

<sup>10</sup> IAALS 2021, *supra* note 3, at 11.

<sup>11</sup> *Id.* at 84.

to deteriorating relationships, from lost confidence to lost income, and from risk of mental illness to risk of being harassed or assaulted.<sup>12</sup>

*A. Defining Access to Justice: Justiciable Problems, Cases, and Legal Needs*

Most civil justice problems have numerous potential solutions. A landlord trying to collect rent might plead with a tenant, compromise on the amount owed, send a letter, refuse to make repairs, or start an eviction proceeding. A parent trying to challenge a school discipline decision might call their child's teacher, complain to the school principal, ask other parents for advice, or hire a lawyer.

For many years, the legal scholarship on access to justice equated access to law with access to justice; it equated the ability to initiate legal procedures or receive legal advice with the ability to *resolve* a problem. For this reason, the access to justice literature long focused on access to *lawyers*, particularly on the creation of a civil *Gideon*.<sup>13</sup> Even today, some legal scholars characterize the “sociological perspective of access to justice” as looking at “how class, ethnic, or racial inequalities prevent people from being able to access the *administration or courts* . . . [and] how institutional designs facilitate or impede access to justice, and how the monopoly on the legal market . . . influences the possibility of obtaining quality *legal representation*.”<sup>14</sup> But this description characterizes only a slice of contemporary access to justice literature, which is moving away from centering lawyers and courts as paradigmatic solutions. As sociolegal scholars have increasingly recognized,<sup>15</sup> understanding access to justice through a narrow “access to lawyers” lens is problematic for at least two reasons. First, there are not enough lawyers in the United States to meet the country's civil justice needs—not by a long shot.<sup>16</sup> Second, for some laypeople and for some legal problems, extralegal solutions are actually preferable. Thus, access to lawyers, courts, and formal legal routes of

---

<sup>12</sup> SANDEFUR, ACCESSING JUSTICE, *supra* note 1, at 9–10.

<sup>13</sup> See, e.g., Bernice K. Leber, *The Time for Civil Gideon Is Now*, 25 *TOURO L. REV.* 23, 24–25 (2009); Robert W. Sweet, *Civil “Gideon” and Confidence in a Just Society*, 17 *YALE L. & POL’Y REV.* 503, 503 (1998).

<sup>14</sup> Daniel Bonilla Maldonado, *The Right to Access to Justice: Its Conceptual Architecture*, 27 *IND. J. GLOBAL LEG. STUD.* 15, 17 (2020) (emphasis added).

<sup>15</sup> For a discussion of the evolution of civil access to justice research up to 2013, see Catherine R. Albiston & Rebecca L. Sandefur, *Expanding the Empirical Study of Access to Justice*, 2013 *WIS. L. REV.* 101 (2013); see also, e.g., Elizabeth Chambliss, Renee Newman Knake & Robert L. Nelson, *Introduction: What We Know and Need to Know About the State of “Access to Justice” Research*, 67 *S.C. L. REV.* 193 (2016).

<sup>16</sup> See D. James Greiner, Dalié Jiménez & Lois R. Lupica, *Self-Help, Reimagined*, 92 *IND. L.J.* 1119, 1122 n.5 (2017) (providing “[n]umerous studies [that] have been conducted within individual states documenting the shortage of available legal assistance relative to demand or need”).

problem-solving are *means* of accessing justice. But accessing a lawyer or a court is not synonymous with accessing justice.<sup>17</sup>

Rebecca Sandefur and James Teufel offer three categories for thinking about access to justice data: justiciable events, legal needs, and cases. Justiciable events “are events or circumstances that have civil legal aspects, raise civil legal issues, and have consequences for people that are shaped by the civil law.”<sup>18</sup> Legal needs are justiciable events that require the use of legal expertise to be resolved.<sup>19</sup> And cases are justiciable events that make it to court.<sup>20</sup> Under this framework, legal needs and cases are subsets of justiciable events and sometimes overlap:<sup>21</sup> some justiciable events are also legal needs; some legal needs become cases, but others do not; some justiciable events are not legal needs but grow into cases anyhow.

Of these three phenomena, we have the least information about legal needs.<sup>22</sup> The deficit is ironic, Sandefur and Teufel point out, since legal need is the concept at the center of the access to justice crisis. At the same time, perhaps the deficit is unsurprising since it is hard to figure out what qualifies as a legal *need*. Some justiciable events, such as divorce or adoption, require interaction with the legal system because a change in legal status has material implications. Other justiciable events, like a landlord-tenant conflict, may contain a legal need in some circumstances but not others, or may develop into a legal need as a situation unfolds. There also may be multiple paths to solving a problem, some of which may use law and some of which may not. If a person solves a civil justice problem extralegally, does it mean they never really had a “legal need” at all? Despite research that tells us when lawyers affect case outcomes,<sup>23</sup> the concept of “legal need” is not yet fleshed out enough to be reliably operationalized.<sup>24</sup>

Understanding access to justice in terms of cases is more clear-cut—irregular and inconsistent state court recordkeeping<sup>25</sup> notwithstanding. After all, this category

---

<sup>17</sup> See Rebecca L. Sandefur, *Access to What?*, 148 *DEDALUS* 49, 50 (2019) [hereinafter Sandefur, *Access to What?*]. For an extended example of the difference between a justice problem and a legal need, see Kathryn M. Young, *What the Access to Justice Crisis Means for Legal Education*, 11 *U.C. IRVINE L. REV.* 811, 812–14 (2021) [hereinafter Young, *What the Access to Justice Crisis Means for Legal Education*].

<sup>18</sup> Sandefur & Teufel, *supra* note 8, at 763.

<sup>19</sup> *Id.* at 759.

<sup>20</sup> *Id.* at 763.

<sup>21</sup> *Id.* at 762.

<sup>22</sup> *Id.* at 753.

<sup>23</sup> See, e.g., Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise Through Lawyers’ Impact*, 80 *AM. SOCIO. REV.* 909 (2015); Colleen F. Shanahan, Anna E. Carpenter & Alyx Mark, *Lawyers, Power, and Strategic Expertise*, 93 *DENV. L. REV.* 469 (2016).

<sup>24</sup> Regarding the complexity of defining legal needs, see Sandefur & Teufel, *supra* note 8, at 769–70.

<sup>25</sup> See Anna E. Carpenter, Jessica K. Steinberg, Colleen F. Shanahan & Alyx Mark, *Studying the “New” Civil Judges*, 2018 *WIS. L. REV.* 249, 266 (2018) (“For scholars, the practical barriers to studying state courts are real and substantial, but, we argue, not



is binary: a person has a lawyer or not; a case is filed or not. Compared to legal needs, cases are more readily quantifiable. But to understand laypeople's experiences of civil justice problems from their own perspective, gathering data in a courtroom or a legal aid office is incomplete because it misses the vast majority of civil justice problems that never make it to a courthouse or a lawyer, since most people do not see their civil justice problems as "legal" at all.<sup>26</sup>

Sandefur shows that the same problems lawyers consider legal, laypeople often think about in nonlegal terms, interpreting their problem as fate, an interpersonal difference of opinion, an act of God, or a problem they created themselves.<sup>27</sup> And if a person does not see a problem as legal, they are unlikely to take it to a lawyer or a court, so the problem is unlikely to develop into a case. Thus, although looking at cases is a useful way to answer some research questions (e.g., "Are courts accessible to everyday people who seek to use them?"), looking at cases is less useful in understanding the broader civil justice landscape because cases are only the tip of what Sandefur calls the "enormous iceberg of civil-justice activity."<sup>28</sup>

The distinction between access to law and access to justice does not diminish the importance of access to justice interventions that take place in formal legal settings, including the role of judges,<sup>29</sup> lawyers,<sup>30</sup> and lay advocates.<sup>31</sup> But the

---

insurmountable. . . . Even the most basic information about state courts is generally difficult to obtain, if it exists at all, as state court data collection is diffuse and inconsistent.").

<sup>26</sup> SANDEFUR, *ACCESSING JUSTICE*, *supra* note 1, at 14; *see also* Rebecca L. Sandefur, *What We Know and Need to Know About the Legal Needs of the Public*, 67 S.C. L. REV. 443, 448 (2016) ("The Middle City study found that people took just over a fifth (22%) of their civil justice situations to someone outside their immediate social network, and only some of those made it to lawyers: 8% involved contact with a lawyer and 8% had court involvement of some sort. The most recent U.S. national survey, from the early 1990s, found that 24% of situations were taken to attorneys, and 14% involved courts. When ordinary Americans face civil justice problems, turning to law is a relatively uncommon response.").

<sup>27</sup> SANDEFUR, *ACCESSING JUSTICE*, *supra* note 1, at 14.

<sup>28</sup> Sandefur, *Access to What?*, *supra* note 17, at 50.

<sup>29</sup> *See generally* Anna E. Carpenter, *Active Judging and Access to Justice*, 93 NOTRE DAME L. REV. 647 (2017) (discussing judges' active roles in helping those without counsel in court); Michele Statz, *On Shared Suffering: Judicial Intimacy in the Rural Northland*, 55 L. & SOC'Y REV. 5 (2021) (discussing judges' role in providing access to justice for those without counsel).

<sup>30</sup> *See* Tonya L. Brito, *Producing Justice in Poor People's Courts: Four Models of State Legal Actors*, 24 LEWIS & CLARK L. REV. 145 (2020).

<sup>31</sup> *See generally* Peter Chapman, *The Legal Empowerment Movement and Its Implications*, 87 FORDHAM L. REV. ONLINE 183 (2019) (discussing how lay advocates can help people with legal issues despite not being lawyers); THOMAS M. CLARKE & REBECCA L. SANDEFUR, *PRELIMINARY EVALUATION OF THE WASHINGTON STATE LIMITED LICENSE LEGAL TECHNICIAN PROGRAM* (2017), <https://nsc.contentdm.oclc.org/digital/collection/accessfair/id/405> [<https://perma.cc/3WPG-3ZJJ>] (showing examples of laypersons providing legal assistance in several programs across the U.S.); Benjamin P. Cooper, *Access to Justice Without Lawyers*, 47 AKRON L. REV. 205, 217–21 (2014) (discussing laypersons providing legal assistance in programs in Washington State and Canada); Deborah L. Rhode, *What We*

distinction is still important. As Gillian Hadfield has observed, we live in a “law-thick” world,<sup>32</sup> and law touches innumerable aspects of life. Lawyers are trained to make distinctions about whether problems are technically “legal,” but for laypeople such distinctions are not so salient; law infuses, contextualizes, overlays, and organizes many aspects of everyday existence.<sup>33</sup> Sometimes laypeople recognize when this takes place, sometimes not.

Nonlawyers’ legal knowledge also varies by problem type.<sup>34</sup> When they face legal problems, people may act without knowledge, or according to inaccurate beliefs about law.<sup>35</sup> They may think law provides remedies it does not, governs areas it does not, or allows behavior it forbids. We see this in any number of areas of life, from property<sup>36</sup> to parking.<sup>37</sup> Because laypeople may hold erroneous beliefs, and because they tend not to think about their legal problems as legal, the best way to find patterns in the distribution of civil justice problems is to start with the lives of everyday people: to ask about issues they are experiencing without requiring them to categorize or label these issues.

Since we seek to understand the distribution of civil justice problems, we adopt a “justiciability” construct.<sup>38</sup> Under this definition, “if law has something to say about access to a *thing*, we can call blocked access to that *thing* an access to justice problem.”<sup>39</sup> Shifting this inquiry centers *everyday people* experiencing problems, as opposed to centering law and legal structures. This approach is increasingly used in civil justice research, including the studies we detail in the following section.

---

*Know and Need to Know About the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. REV. 429 (2016).

<sup>32</sup> Gillian K. Hadfield, *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans*, 37 FORDHAM URB. L. J. 129, 133 (2010).

<sup>33</sup> As Hadfield writes, “Every time we sign a document, click a box that says ‘I Agree,’ enter a retail shop, or get on a local bus we navigate a world that is defined by legal obligations and rights and, importantly, one that assumes that the ordinary citizen who moves in this world is doing so as a functioning, choosing, legal agent.” *Id.* at 132.

<sup>34</sup> See Kathryn M. Young, *Rights Consciousness in Criminal Procedure: A Theoretical and Empirical Inquiry*, in 12 ACCESS TO JUSTICE, SOCIOLOGY OF CRIME, LAW & DEVIANCE 67, 74 (Rebecca L. Sandefur ed., 2009); Catrina Denvir, Nigel J. Balmer & Pascoe Pleasence, *When Legal Rights Are Not a Reality: Do Individuals Know Their Rights and How Can We Tell?*, 35 J. SOC. WELFARE & FAM. L. 139, 154 (2013).

<sup>35</sup> This is likely in part because people tend to believe that the law aligns with their own values. See Kevin M. Carlsmith & John M. Darley, *Psychological Aspects of Retributive Justice*, in 40 ADV. EXPERIMENTAL SOC. PSYCH. 193, 224 (Mark P. Zanna ed., 2008).

<sup>36</sup> See Robert C. Ellickson, *Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County*, 38 STAN. L. REV. 623 (1986).

<sup>37</sup> See Susan S. Silbey, *J. Locke, op. cit.: Invocations of Law on Snowy Streets*, 5 J. COMPAR. L. 66 (2011).

<sup>38</sup> For a more detailed explanation of the justiciability construct, which has been part of the access to justice literature for many years, see Young, *What the Access to Justice Crisis Means for Legal Education*, *supra* note 17, at 812–13.

<sup>39</sup> *Id.* at 813.

*B. The Known Magnitude of the U.S. Justice Gap: Extant Studies of Everyday Civil Justice Problems*

In recent decades, U.S. scholarly attention to justiciable events, as opposed to legal cases, has grown. A handful of studies has sharpened the empirical picture of the justice gap.

We summarize findings from five key studies from the last decade. Together, they paint a sobering picture, underscoring the disproportionate impact of civil justice problems on low-income Americans and Americans of color, as well as the sheer pervasiveness of justiciable problems.

In 2013, the Community Needs and Services Study (CNSS) used a stratified random sample of Americans in a midsized midwestern city to investigate everyday people's experiences with key civil justice problems.<sup>40</sup> The size of the sample, 668, is noteworthy given that respondents were interviewed for 60 to 90 minutes about their problems (an average of 2.1 problems per person over the 18 months preceding the survey).<sup>41</sup> The CNSS found that although justice problems were widespread, the distribution was not uniform: "poor people were significantly more likely to report civil justice situations than people in high or middle income households, and African Americans and Hispanics were more likely to report civil justice situations than were Whites."<sup>42</sup> Importantly, the CNSS found that cost was not the main barrier to legal assistance. Rather, people sought no legal help because they did not think of their civil justice problems as legal problems.<sup>43</sup> The CNSS, along with Rebecca Sandefur's other work, was crucial in upending legal scholars' long-held assumptions that lawyers' expense was the chief hurdle to better justice provision, and drew attention to the need for work that examined civil justice problems from everyday people's perspectives.

The Legal Services Corporation (LSC) surveyed approximately 2,000 low-income Americans and found that in the year before the survey, 71% of those households had faced a civil justice problem.<sup>44</sup> Child custody issues and wills and estates issues prompted the most legal advice-seeking, and problems related to

---

<sup>40</sup> See SANDEFUR, *ACCESSING JUSTICE*, *supra* note 1. The CNSS built on previous legal needs studies as well, most significantly on the American Bar Association's 1994 Comprehensive Legal Needs Survey.

<sup>41</sup> *Id.* at 5–6.

<sup>42</sup> *Id.* at 8. These racial and income disparities were statistically significant, and there was no significant gender disparity between men and women's likelihood of encountering a civil justice situation in the past 18 months. *Id.* at 9.

<sup>43</sup> *Id.* at 13. When asked to select among descriptors of their situation, people selected "bad luck / part of life" or "part of God's plan" over half the time—and selected "legal" as a descriptor less than ten percent of the time. *Id.* at 14.

<sup>44</sup> LEGAL SERV. CORP., *THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS* 6 (2017) [hereinafter LSC 2017], <https://lsc-live.app.box.com/s/6x4wbh5d2gqxwy0v094os1x2k6a39q74> [<https://perma.cc/VQJ4-YQAL>]. A particular strength of the LSC survey is its extremely detailed breakdown of problem types. *Id.* at 31.

health and education prompted the least.<sup>45</sup> People most commonly sought no legal assistance because they “[d]ecided to just deal with it without help,” did not know where to look for help, or were uncertain that their problem was a legal one.<sup>46</sup> These findings echoed the CNSS; a dearth of available, affordable lawyers was not the main barrier to everyday people’s legal resolution of their civil legal needs.

Two studies followed in 2018. The World Justice Project (WJP) surveyed respondents from 126 countries,<sup>47</sup> including 1,086 from the United States,<sup>48</sup> and the Pew Charitable Trusts distributed a Civil Legal Survey to 1,002 Americans about housing disputes, employment problems, and other common civil justice matters.<sup>49</sup> Once again, results underscored the pervasiveness of civil justice problems.<sup>50</sup> The WJP results echoed the CNSS findings that Black Americans, Latinx Americans, and low-income Americans were especially likely to face civil justice problems.<sup>51</sup>

In 2019, a fifth major study of justiciable events in the United States, the Justice Needs and Satisfaction Survey, was launched by the Hague Institute for Innovation of Law and the Institute for the Advancement of the American Legal System (IAALS).<sup>52</sup> Not only was the sample representative of the U.S. population in terms of race, gender, and age (although not income),<sup>53</sup> but it had 10,058 respondents.<sup>54</sup> In addition to problems’ frequency, IAALS investigated problems’ nature and seriousness, finding that problems’ existence and resolution rates were related to gender, income, race, age, and living environment. The researchers concluded that “certain socio-demographic groups are particularly disadvantaged in terms of access

---

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 34.

<sup>47</sup> *Rule of Law Index*, WORLD JUSTICE PROJECT 5 (2019) [hereinafter WJP 2019], <https://worldjusticeproject.org/sites/default/files/documents/ROLI-2019-Reduced.pdf> [<https://perma.cc/ZH2Z-Z6KP>] (last visited Sept. 23, 2022).

<sup>48</sup> *Id.* at 166. For the text of the WJP 2019 questionnaire, see WORLD JUSTICE PROJECT, GENERAL POPULATION POLL (2019), <https://worldjusticeproject.org/sites/default/files/documents/GPP%20Questionnaire%202019.pdf> [<https://perma.cc/C46S-HM3V>] (last visited Sept. 23, 2022).

<sup>49</sup> PEW CHARITABLE TRUSTS CIVIL LEGAL SURVEY: TOPLINE REPORT, SSRS (Jan. 25, 2019), <https://www.pewtrusts.org/-/media/assets/2019/04/survey-topline-report.pdf> [<https://perma.cc/5VHG-U7DP>] (last visited Sept. 23, 2022). Both studies used samples representative of the U.S. population. According to Sandefur and Teufel, “these projects were the first attempt in decades to survey a nationally representative sample on this topic.” Sandefur & Teufel, *supra* note 8, at 764–65.

<sup>50</sup> See Erika Rickard, *Many U.S. Families Faced Civil Legal Issues in 2018*, PEW (Nov. 19, 2019), <https://www.pewtrusts.org/en/research-and-analysis/articles/2019/11/19/many-us-families-faced-civil-legal-issues-in-2018> [<https://perma.cc/L9NH-GBYH>]; WJP 2019, *supra* note 47, at 166.

<sup>51</sup> To the authors’ knowledge, Pew has not released information pertaining to demographic patterns in the distribution of civil justice problems. See PEW CHARITABLE TRUSTS CIVIL LEGAL SURVEY, *supra* note 49.

<sup>52</sup> See IAALS 2021, *supra* note 3.

<sup>53</sup> *Id.* at 19, 29.

<sup>54</sup> *Id.* at 24.

to justice. Multiracial (non-Hispanic) and Black (non-Hispanic) Americans most frequently encounter legal problems. On average, Black Americans also experienced more serious legal problems than any other racial or ethnic group.”<sup>55</sup> Also consistent with prior research, IAALS found that justiciable problems were pervasive: “Legal problems are not only problems for the poor. Low-income, middle class, and wealthy Americans regularly encounter legal problems.”<sup>56</sup> Once again, cost failed to emerge as the primary reason people failed to seek legal solutions.<sup>57</sup>

In sum, in addition to underscoring Sandefur’s finding that people tend not to think of their civil justice problems as legal problems, race and class have consistently emerged as the two factors most reliably correlated with a person’s chances of experiencing justiciable civil problems.

*C. The Unknown Magnitude of the U.S. Justice Gap: What We Still Don’t Know About Civil Justice Needs*

The aforementioned studies notwithstanding, empirical examination of civil justice problems’ distribution has been less robust than we might expect. The U.S. Census has never systematically collected information about civil justice problems, and individual states have only recently begun getting a handle on the breadth of legal needs within their borders.<sup>58</sup> The Pew and World Justice Project surveys’ size “limit[ed] the surveys’ power to report on the experiences of smaller groups in a diverse country”<sup>59</sup> and restricted their analyses to gender, race, and income.<sup>60</sup> The LSC sample, though unrepresentative, had an interesting feature: it identified six

---

<sup>55</sup> *Id.* at 223.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 230. Another major contribution of IAALS’s Justice Needs and Satisfaction Survey is that it examined not only justice problems, but justice *paths*. *Id.* at 153. That is, for the problem a respondent designated as their most serious, they were asked additional details, such as when the problem started, whether it had been resolved, and if not, whether the respondent expected resolution. Detailed information was also gathered about paths toward resolution. *Id.* Women, people with low incomes, older people, Black and Hispanic people, and people living in rural environments were less likely to “completely resolve” their most serious legal problems. *Id.* at 84–85, 223. Again, income level was associated with a person’s chances of experiencing a civil justice challenge. *See id.* The IAALS report concluded that “[t]here is a strong, almost linear relationship between household income and negative consequences associated with legal problems.” *Id.* at 76. Thus, both the civil justice problems themselves, and the burden of weathering these problems’ negative consequences, fall disproportionately on lower-income households. *Id.* at 85. This effect holds across gender, but it is particularly strong for low-income women. *Id.*

<sup>58</sup> Even so, many statewide studies still focus only on problems that make it to courts or lawyers instead of focusing on justiciable events—completely omitting the submerged bulk of the access to justice iceberg. *See Sandefur, Access to What?, supra* note 17, at 50.

<sup>59</sup> Sandefur & Teufel, *supra* note 8, at 766.

<sup>60</sup> For example, analyses of the WJP data necessitated comparing white people to non-white people as a whole, *see id.*, which does not allow separate analysis of, say, results for Black respondents versus Asian respondents.

low-income populations of interest<sup>61</sup> and reported patterns for each, suggesting avenues for future researchers. Its investigation of these populations, however, is limited. The results for each population are reported as percentages and may or may not be statistically significant. Nor does the analysis seem to control for other identity factors using a method such as logistic regression. These omissions make it difficult to understand which factors drive inequities.<sup>62</sup>

Despite calls for more research, the amount we do *not* know remains striking. A 2021 report from the American Academy of Arts and Sciences stated: “[We] simply do not know enough about who faces civil justice issues, which issues they face, and what consequences these issues have for long-run outcomes.”<sup>63</sup>

Beyond race, class, and gender, little is known about how access to justice problems are distributed. Even less is known about how justice problems are distributed *within* these categories.<sup>64</sup> For example, is a Black American at every income level more likely to have a civil justice problem than a white American at the same income level? How do intersectional factors—combinations of identities— affect a person’s chances of experiencing a problem? What other characteristics render people particularly vulnerable to certain civil justice problems? As David Udell and Amy Widman have observed, “in the civil legal aid community, awareness of the power of data is just beginning to take root.”<sup>65</sup>

A more granular empirical understanding will allow legal aid organizations, nonlawyer services, and policymakers to design interventions targeted more

---

<sup>61</sup> These populations were: seniors (people aged 65+), rural residents, U.S. military veterans, people with disabilities, parents of children under age 18, and survivors of domestic violence or sexual assault. LSC 2017, *supra* note 44, at 47–52.

<sup>62</sup> For example, if survivors of domestic violence are more likely to experience justice problems, is it because they are survivors of domestic violence, or because they are disproportionately women, or because of the combination of these two traits?

<sup>63</sup> AM. ACAD. OF ARTS AND SCI., MEASURING CIVIL JUSTICE FOR ALL 1 (2021), <https://www.amacad.org/sites/default/files/publication/downloads/2021-Measuring-Civil-Justice-for-All.pdf> [<https://perma.cc/ZSU2-P8WG>]. A 2021 report by the American Academy of Arts and Sciences, recommended systematic, detailed data collection from courts, including litigant age, gender, income, English language facility, disability, and race/ethnicity (none of which are typically collected by courts). This civil justice “data commons” could be used to track patterns about who faces which problems, in which jurisdictions, and how these cases are resolved. But even such an ambitious initiative would not be able to provide detail about the massive parts of the civil justice iceberg that are still lurking, unresolved and sometimes unspoken, beneath the ocean’s surface.

<sup>64</sup> For example, in the IAALS study, more than 40% of their sample made \$100,000 or more annually, IAALS 2021, *supra* note 3, at 24–25, which is true for less than one third of the American population. See American Community Survey, *Income in the Past 12 Months (In 2019 Inflation-Adjusted Dollars)*, U.S. CENSUS BUREAU, <https://data.census.gov/cedsci/table?q=income&tid=ACSST1Y2019.S1901> [<https://perma.cc/UHB4-XECP>] (last visited Sept. 23, 2022).

<sup>65</sup> David Udell & Amy Widman, *Tracking Client Outcomes: A Qualitative Assessment of Civil Legal Aid’s Use of Outcomes Data, with Recommendations*, 25 CARDOZO J. EQUAL RTS. & SOC. JUST. 435, 436 (2019).

precisely to populations in special need of assistance. If research established, for example, that middle-class Latinx mothers were three times more likely to face justice problems related to elder care, relevant justice interventions could be used in media, shared with communities, and made available in physical and virtual spaces frequented by middle-class Latinx mothers. This approach allows for more efficiency and precision and acknowledges that Americans' best routes to solving their civil justice problems may not be a one-size-fits-all endeavor. Our study aims to develop this deeper empirical understanding.

## II. THE PRESENT STUDY

In 2021, we administered a survey to a sample of U.S. adults (N = 3,635).<sup>66</sup> Respondents completed a demographic inventory and an inventory of civil justice problems.<sup>67</sup> They were asked to indicate when, if ever, they had experienced these problems (currently, never, in the past year, or more than one year ago).<sup>68</sup>

Our analyses investigate how multiple categories of social life and key past experiences intersect with people's likelihood of experiencing different types of civil justice problems. In addition to race, income, education, gender, and age, we selected other categories that sociolegal research has identified as important: queer

---

<sup>66</sup> We recruited participants through a panel maintained by a market research and survey panel company, InnovateMR, which screened participants to build a verified sample that was nationally representative by gender, race, age, education, income, and region.

<sup>67</sup> The survey had other parts as well, including a series of hypothetical questions to which respondents gave open-ended answers. We do not discuss the results of the other parts of the survey in this Article.

<sup>68</sup> Respondents were compensated with gift cards. InnovateMR uses a point system through pointclub.com that respondents trade for gift cards or charitable donations. The median survey duration was 23.1 minutes and the average duration was 35.8 minutes.

identity,<sup>69</sup> rurality,<sup>70</sup> disability,<sup>71</sup> and whether a person is a parent to a child under age 18.<sup>72</sup> Additionally, in light of the growing literature on trauma's long-term effects,<sup>73</sup> we included a variable to indicate whether a person had experienced one

---

<sup>69</sup> See DOUG MEYER, *VIOLENCE AGAINST QUEER PEOPLE: RACE, CLASS, GENDER, AND THE PERSISTENCE OF ANTI-LGBT DISCRIMINATION* (2015); András Tilcsik, *Pride and Prejudice: Employment Discrimination Against Openly Gay Men in the United States*, 117 AM. J. SOCIO. 586, 586–88 (2011); Long Doan, Annalise Loehr & Lisa R. Miller, *Formal Rights and Informal Privileges for Same-Sex Couples: Evidence from a National Survey Experiment*, 79 AM. SOCIO. REV. 1172, 1172–73 (2014).

<sup>70</sup> See Japonica Brown-Saracino, *How Places Shape Identity: The Origins of Distinctive LBQ Identities in Four Small U.S. Cities*, 121 AM. J. SOCIO. 1, 4 (2015) (“[M]ost [scholarly explanations of LGBT identities] attribute variation in identity to cohort-level attributes such as . . . category of place in which individuals live or work (e.g., suburban, urban, southern, northern).” (citations omitted)); Lisa R. Pruitt, *Place Matters: Domestic Violence and Rural Difference*, 23 WIS. J. L. GENDER & SOC’Y 347, 349–54 (2008) (comparing domestic violence in urban versus rural settings); Lisa R. Pruitt & Marta R. Vanegas, *Urbanormativity, Spatial Privilege, and Judicial Blind Spots in Abortion Law*, 30 BERKELEY J. GENDER L. & JUST. 76, 80 (2015) (studying the disproportionate impacts of abortion restrictions on “[w]omen who are both rural and poor”).

<sup>71</sup> See Doron Dorfman, *Re-Claiming Disability: Identity, Procedural Justice, and the Disability Determination Process*, 42 L. & SOC. INQUIRY 195, 197 (2017) (studying “how the complexity of life with disabilities manifests in processes” such as claiming Social Security benefits); David M. Engel & Frank W. Munger, *Narrative, Disability, and Identity*, 15 NARRATIVE 1 (2007); Dan Goodley & Katherine Runswick-Cole, *The Violence of Disablism*, 33 SOCIO. HEALTH & ILLNESS 602, 603 (2011) (studying how “for some disabled children . . . violence and impairment are knotted together as a pathological whole”); Jan Grue, *The Social Meaning of Disability: A Reflection on Categorisation, Stigma and Identity*, 38 SOCIO. HEALTH & ILLNESS 957, 958 (2016) (studying the “social meaning of disability”).

<sup>72</sup> See Robin W. Simon & Jennifer Caputo, *The Costs and Benefits of Parenthood for Mental and Physical Health in the United States: The Importance of Parenting Stage*, 9 SOC’Y & MENTAL HEALTH 296, 296 (2019) (“[P]arents report higher levels of depression than nonparents in the United States . . . .”); Kei Nomaguchi & Melissa A. Milkie, *Parenthood and Well-Being: A Decade in Review*, 82 J. MARRIAGE & FAM. 198, 200–02 (2020); SYLVIA ANN HEWLETT & CORNEL WEST, *THE WAR AGAINST PARENTS: WHAT WE CAN DO FOR AMERICA’S BELEAGUERED MOMS AND DADS* 109–18 (1998) (describing how the United States government is “actively antagonistic towards parents”); JODY HEYMANN, *THE WIDENING GAP: WHY AMERICA’S WORKING FAMILIES ARE IN JEOPARDY AND WHAT CAN BE DONE ABOUT IT* 139–50 (2000) (describing the disproportionate impact of parenthood on women, resulting in “women remain[ing] effectively segregated by job and wage”).

<sup>73</sup> See BESSEL VAN DER KOLK, *THE BODY KEEPS THE SCORE: BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA* (2015); Shannon M. Monnat & Raeven Faye Chandler, *Long-Term Physical Health Consequences of Adverse Childhood Experiences*, 56 SOC. Q. 723 (2015); Alexander Testa, Dylan B. Jackson, Kyle T. Ganson & Jason M. Nagata, *Adverse Childhood Experiences and Criminal Justice Contact in Adulthood*, 22 ACAD. PEDIATRICS 972 (2022).



of two types of traumatic events: being arrested,<sup>74</sup> which disproportionately affects men,<sup>75</sup> and experiencing domestic violence or sexual assault,<sup>76</sup> which disproportionately affects women.<sup>77</sup> Little is known about how and whether any of

---

<sup>74</sup> While extensive literature documents incarceration's deleterious effects on mental health, a growing body of research demonstrates that all police interactions (including arrests, stops, and searches) are associated with increased likelihood of poor mental health. See Melissa N. McLeod, Daliah Heller, Meredith G. Manze & Sandra E. Echeverria, *Police Interactions and the Mental Health of Black Americans: A Systematic Review*, 7 J. RACIAL & ETHNIC HEALTH DISPARITIES 10 (2020); Naomi F. Sugie & Kristin Turney, *Beyond Incarceration: Criminal Justice Contact and Mental Health*, 82 AM. SOC. REV. 719 (2017).

<sup>75</sup> EAMONN CARRABINE, PAUL IGANSKI, MAGGY LEE, KEN PLUMMER & NIGEL SOUTH, CRIMINOLOGY: A SOCIOLOGICAL INTRODUCTION 88 (2004). In 2019, over 70 percent of arrestees were men. See Table 42: Arrests by Sex, U.S. DOJ: FBI, in *2019 Crime in the United States*, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-42> [<https://perma.cc/3B6P-S54A>] (last visited Sept. 23, 2022).

<sup>76</sup> Natalie Pill, Andrew Day & Helen Mildred, *Trauma Responses to Intimate Partner Violence: A Review of Current Knowledge*, 34 AGGRESSION & VIOLENT BEHAV. 178 (2017); Kate M. Scott, Karestan C. Koenen, Andrew King, Maria V. Petukhova, Jordi Alonso, Evelyn J. Bromet, Ronny Bruffaerts, Brendan Bunting, Peter de Jonge, Josep Maria Haro, et al., *Post-Traumatic Stress Disorder Associated with Sexual Assault Among Women in the WHO World Mental Health Surveys*, 48 PSYCH. MED. 155 (2018). Here, we use the phrase "domestic violence" instead of "intimate partner violence" (IPV) because the measure we used specifically asked about experiences of domestic violence. IPV is a form of domestic violence that occurs between intimate partners. *Intimate Partner Violence*, CDC, <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html> [<https://perma.cc/4BJF-MEPR>] (last visited Oct. 19, 2022). Conversely, domestic violence includes all instances of IPV as well as violence between a parent and child, siblings, or roommates. Since domestic violence is broader and our measure used the label "domestic violence," we use that term here. However, readers should consider our findings in relation to the wide literature on intimate partner violence since IPV is a large portion of all domestic violence. See Loraine J. Bacchus, Meghna Ranganathan, Charlotte Watts & Karen Devries, *Recent Intimate Partner Violence Against Women and Health: A Systematic Review and Meta-Analysis of Cohort Studies*, 8 BMJ OPEN 1 (2018).

<sup>77</sup> In the U.S., one in four women and one in ten men experience sexual violence, physical violence, and/or stalking by an intimate partner during their lifetime. See SHARON G. SMITH, XINJIAN ZHANG, KATHLEEN C. BASILE, MELISSA T. MERRICK, JING WANG, MARCIE-JO KRESNOW & JIERU CHEN, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2015 DATA BRIEF—UPDATED RELEASE 7 (Nat'l Ctr. for Injury Prevention and Control & CDC, 2018), <https://www.cdc.gov/violenceprevention/pdf/2015-data-brief508.pdf> [<https://perma.cc/R57B-8QMT>]. In the U.S., one in five women and one in seventy-one men will be raped at some point in their lives. See MICHELE C. BLACK, KATHLEEN C. BASILE, MATTHEW J. BREIDING, SHARON G. SMITH, MIKEL L. WALTERS, MELISSA T. MERRICK, JIERU CHEN & MARK R. STEVENS, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT 1 (Nat'l Ctr. for Injury Prevention and Control & CDC, 2011), [https://www.cdc.gov/ViolencePrevention/pdf/NISVS\\_Report\\_2010-a.pdf](https://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report_2010-a.pdf) [<https://perma.cc/9Y78-QGUE>]; additionally, the IAALS (2021) survey found that more women than men (10% compared to 5%, respectively) experience domestic violence and/or sexual assault. IAALS 2021, *supra* note 3, at 62.

these identity or experiential factors affect a person's chances of experiencing civil justice problems. In the following section, we describe how we designed and carried out our survey. Readers uninterested in methodology may wish to skip to Part III for the results.

### *A. Sampling Procedures*

We based our sampling goals on data from the 2019 U.S. Census and the 2019 American Community Survey. In addition to setting sampling quotas to ensure proportional representativeness of the variables of interest, we inspected sample measurements during collection to ensure diversity *within* characteristics—for example, to ensure that all income levels were well-represented by people of all races.<sup>78</sup> Panel sampling metrics were adjusted throughout data collection to build a representative respondent pool. Additionally, we oversampled non-white racial groups.<sup>79</sup>

### *B. Survey Design*

For each civil justice experience on the survey, respondents could indicate that they had the problem now, in the past year, more than a year ago, or never.<sup>80</sup> For each problem, we created a binary dependent variable to indicate whether a respondent had encountered the problem in the past year: assigning a “1” if the respondent indicated that they were currently experiencing the problem, and/or had experienced it in the past year and a “0” if they indicated that they had experienced it more than a year ago or not at all. The purpose of coding problem experience into a binary variable was to capture respondents' most recent civil justice problems using a one-year “snapshot” of their lives.<sup>81</sup>

---

<sup>78</sup> We worked with InnovateMR throughout multiple waves of the sampling process to ensure national representativeness on key axes.

<sup>79</sup> For a table comparing our survey data to the 2019 U.S. Census and the 2019 American Community Survey, contact the first author at [kyoung2@law.gwu.edu](mailto:kyoung2@law.gwu.edu).

<sup>80</sup> Respondents were permitted to choose multiple options, since a problem may have spanned multiple years or occurred multiple times.

<sup>81</sup> Since the survey was administered in 2021, the one-year snapshot overlaps with the COVID-19 pandemic. This was unplanned but consistent with the study's purposes, since the public health crisis has deepened—but not fundamentally changed—the nature of existing social inequities. “COVID-19 has newly exposed and further exacerbated . . . long-standing challenges, while also illuminating the pervasive racial and socioeconomic inequities in health care access, quality, and outcomes in the U.S.” KAREN DESALVO, BOB HUGHES, MARY BASSETT, GEORGES BENJAMIN, MICHAEL FRASER, SANDRO GALEA, J. NADINE GRACIA & JEFFREY HOWARD, NAT'L ACAD. OF MED. PUBLIC HEALTH: COVID-19 IMPACT ASSESSMENT: LESSONS LEARNED AND COMPELLING NEEDS 2 (Apr. 7, 2021), <https://nam.edu/wp-content/uploads/2021/04/Public-Health-COVID19-Impact-Assessment-Lessons-Learned-and-Compelling-Needs.pdf> [<https://perma.cc/EG5H-ZTRE>]; *see also*, e.g., Annegret Haase, *Covid-19 as a Social Crisis and Justice Challenge for Cities*, 5 FRONTIERS SOCIO. 583–638 (2020).

We grouped problems into three substantive categories and created a binary variable to indicate whether a respondent had experienced at least one problem in that category during the past year. The problems in each category are not intended to be an exhaustive list of *all* possible problems in that category, but rather a list of some of the most common ones. The categories and their constituent problems are:

- Employment. Three problems: “not being paid fairly for work that you did;” “fired/job ending for an unfair reason;” and “other issue/problem with an employer.”
- Family structure. Four problems: “any problems having to do with the custody of a child (even if you are not the child’s parent);” “divorce complications;” “trouble paying child support yourself;” and “trouble getting an ex to pay child support.”
- Debt. Four problems: “not being able to afford your rent;” “not being able to afford your mortgage payments;” “declared or seriously considered declaring bankruptcy;” and “having a lot of credit card debt.”

The demographic characteristics included were race,<sup>82</sup> gender,<sup>83</sup> age,<sup>84</sup> income,<sup>85</sup> education,<sup>86</sup> LGBTQ+ identity,<sup>87</sup> physical disability status,<sup>88</sup> rurality,<sup>89</sup> and parenting a child under 18 years old.<sup>90</sup> In addition, we included two trauma experience

---

<sup>82</sup> To measure race, we asked: “Which racial/ethnic categories describe you? Select all that apply to you.” Response options included a parenthetical with examples. Respondents could select multiple categories. Consistent with standard practice in statistical analyses, race categories with small Ns were recoded into the other race category. Respondents who selected more than one race were coded as multiracial. This left us with the following categories: white, Black, Latinx, Asian, multiracial, and other. For the full text of this question or any other question on the survey, contact the first author at [kyoung2@law.gwu.edu](mailto:kyoung2@law.gwu.edu).

<sup>83</sup> InnovateMR keeps gender information for their panel, so respondents’ gender was appended. Gender response options were “male” and “female.” Instead of using these sex labels to describe gender, we use “woman” and “man” herein. See STEVEN E. BARKAN, *Gender and Gender Inequality: Understanding Sex and Gender, in SOCIOLOGY: UNDERSTANDING AND CHANGING THE SOCIAL WORLD* 189–209 (2011). InnovateMR’s panel provided no option for nonbinary people or others who do not identify as “male” or “female.” For best practices regarding measuring sex and gender in social research, see, e.g., Laurel Westbrook & Aliya Saperstein, *New Categories Are Not Enough: Rethinking the Measurement of Sex and Gender in Social Surveys*, 29 *GENDER & SOC.* 534 (2015).

<sup>84</sup> InnovateMR computed respondents’ ages using their panelists’ birth years and appended the data to our sample.

<sup>85</sup> InnovateMR appended respondents’ income data to our sample. Their panelists’ incomes are updated every six months. Respondents are asked: “What is your current annual household income before taxes?” We recoded income into an ordinal variable with the following groupings: \$0 to \$19,999; \$20,000 to \$39,999; \$40,000 to \$59,999; \$60,000 to \$79,999; \$80,000 to \$99,999; \$100,000 to \$124,999; \$125,000 to \$149,999; \$150,000 and above. We were missing income information for 83 respondents (2.3% of the entire sample).

<sup>86</sup> InnovateMR appended respondents’ education to our sample. Like income, InnovateMR panelists’ education levels are updated every six months. We were missing education information for four respondents (.1% of the entire sample). We recoded education into a binary variable: having a college BA or higher versus having less education than a college BA.

<sup>87</sup> LGBTQ+ status was measured with two questions. First, we measured sexual orientation via the question: “I am NOT straight. (For example, I identify as gay, lesbian, bisexual, or something else besides heterosexual.)” Respondents could answer “yes” or “no.” Additionally, they were presented with the statement: “I am transgender.” Again, respondents could answer “yes” or “no.” We created an LGBTQ+ variable with anyone who answered “yes” to either, or both, of those questions.

<sup>88</sup> Disability status was measured with the question: “I have a physical disability.” Respondents were prompted to select “yes” or “no.”

<sup>89</sup> Rurality was measured with the question: “I live in a rural area.” Respondents were prompted to select “yes” or “no.”

<sup>90</sup> We measured whether respondents were the parent of a child under 18 years old by having respondents select “yes” or “no” following the statement: “I am a parent or primary caretaker of a child under the age of 18.”

variables: whether the respondent has ever been arrested and whether the respondent is a survivor of domestic violence and/or sexual assault.<sup>91</sup>

### C. Data Analysis

We used a series of binary logistic regressions to predict each of the three problem types using the above independent predictors.<sup>92</sup> Logistic regressions estimate the relative associations between independent variables and a binary dependent categorical variable. All iterations of these models predict the probability of experiencing a certain problem type within the last year—that is, an employment, family structure, or debt problem.<sup>93</sup> We also interacted gender and race (gender\*race) in all iterations of these models. Since only one such interaction was significant, however, we present the more parsimonious models.<sup>94</sup>

## III. RESULTS

To understand the association between respondent characteristics and chances of experiencing a particular category of civil justice problem in the past year, we use two different methods: a series of binary logistic regressions, which allows us to estimate odds ratios, and a series of predicted probabilities, which allows us to investigate the magnitude of the results.

In the three sections that follow, we proceed accordingly: Section A reports the overall prevalence and frequency of civil justice problems among our respondents; Section B details the binary logistic regressions and presents a table showing regression results, allowing the reader to look at which characteristics were significantly associated with which problem categories; and Section C comprises a

---

<sup>91</sup> We measured respondents' previous arrest with the question: "Have you ever done any of the following? Been arrested by police (for any reason, even if you were never charged with a crime)." Respondents were prompted to select "yes" or "no." For domestic violence and/or sexual assault, we asked: "Do any of these descriptions apply to you?" and the relevant item read, "I am a survivor of domestic violence and/or sexual assault." Respondents were prompted to select "yes" or "no."

<sup>92</sup> Binary logistic regressions were run using the "logit" command in STATA. This command automatically drops missing cases for all variables in the model. Since the missingness for these models was so minimal (~2% of the total sample, or N=87), we did not impute missing values.

<sup>93</sup> Although logistic regressions can assess the associations between variables, we caution the reader not to assume causal relationships between variables with significant associations.

<sup>94</sup> The only significant gender\*race interaction term was: Asian\*men in the employment problem model. Ad hoc predicted probabilities of the Asian\*men interaction in the employment model revealed that, when holding all other variables at their given values, the likelihood of different groups experiencing an employment problem was 26.91% (*SE*=1.33%) for white men, 23.35% (*SE*=1.33%) for white women, 35.60% (*SE*=4.64%) for Asian men, and 31.47% (*SE*=4.03%) for Asian women.

series of simulated probabilities that demonstrates the utility of our granular approach.

*A. Overall Prevalence of Civil Justice Problems*

Table 1 presents the frequency of each problem type in the previous year: employment problems, family structure problems, and debt problems. Overall, 1,017 respondents experienced an employment problem (27.98%)—nearly one-third of our sample. About one-tenth of our respondents (10.26% or 373 respondents) experienced a family structure problem in the previous year. Lastly, about one-third of all respondents experienced a debt problem in the previous year (30.04% or 1,092 respondents). Considering that we did not ask about every conceivable civil legal need and only looked at experiences from the past year, these descriptive statistics are conservative—which makes them especially alarming.

*Table 1. Sample Demographics by Problem Clusters in the Past Year*

	<u>Employment</u>	<u>Family</u>	<u>Debt</u>	<u>Total</u>
	N = 1,017	N = 373	N = 1,092	N = 3,635
Characteristics	N (%)	N (%)	N (%)	N (%)
<b>RACE</b>				
White	375 (36.9%)	152 (40.8%)	511 (46.8%)	1830 (50.3%)
Black	162 (15.9%)	64 (17.2%)	141 (12.9%)	468 (12.9%)
Latinx	256 (25.2%)	76 (20.4%)	235 (21.5%)	648 (17.8%)
Asian	67 (6.6%)	8 (2.1%)	53 (4.9%)	248 (6.8%)
Multiracial	125 (12.3%)	61 (16.6%)	122 (11.2%)	342 (9.4%)
Other race	32 (3.2%)	12 (3.2%)	30 (2.8%)	99 (2.7%)
<b>GENDER</b>				
Women	526 (51.7%)	199 (53.4%)	619 (56.7%)	1870 (51.4%)
Men	491 (48.3%)	174 (46.7%)	473 (43.3%)	1765 (48.6%)
<b>AGE</b>				
18-25	276 (27.1%)	66 (17.7%)	184 (16.9%)	583 (16.0%)
26-35	277 (27.2%)	114 (30.6%)	240 (22.0%)	659 (18.1%)
36-45	200 (18.7%)	108 (29.0%)	243 (22.3%)	642 (17.7%)
46-55	117 (11.5%)	50 (13.4%)	186 (17.0%)	522 (14.4%)
56-65	92 (9.1%)	25 (6.7%)	126 (11.5%)	583 (16.0%)
66-75	50 (4.9%)	9 (2.4%)	97 (8.9%)	529 (14.6%)
76 and up	5 (.5%)	1 (.3%)	16 (1.5%)	117 (3.2%)
<b>INCOME</b>				
\$0 to \$19,999	174 (17.1%)	63 (16.9%)	206 (18.9%)	586 (16.1%)
\$20,000 to \$39,999	277 (27.2%)	119 (31.9%)	338 (31.0%)	904 (24.9%)
\$40,000 to \$59,999	176 (17.3%)	71 (19.0%)	182 (16.7%)	607 (16.7%)
\$60,000 to \$79,999	127 (12.5%)	35 (9.4%)	132 (12.1%)	499 (13.7%)
\$80,000 to \$99,999	73 (7.2%)	23 (6.2%)	73 (6.7%)	308 (8.5%)
\$100,000 to \$124,999	58 (5.7%)	20 (5.4%)	57 (5.2%)	190 (5.2%)
\$125,000 to \$149,999	51 (5.0%)	12 (3.2%)	32 (2.9%)	202 (5.6%)
\$150,000 and above	61 (6.0%)	26 (7.0%)	54 (5.0%)	256 (7.0%)
Missing	20 (2.0%)	4 (1.1%)	18 (1.7%)	83 (2.3%)
<b>EDUCATION</b>				
No College Education	638 (62.7%)	260 (69.7%)	743 (68.0%)	2263 (62.3%)
College Education	378 (37.2%)	112 (30.0%)	348 (31.9%)	1372 (37.7%)
Missing	1 (.1%)	1 (.3%)	1 (.1%)	4 (.1%)
<b>QUEER</b>				
Non-LGBTQ+	838 (82.4%)	296 (79.4%)	916 (83.9%)	3193 (87.8%)
LGBTQ+	179 (17.6%)	77 (20.6%)	176 (16.1%)	442 (12.2%)
<b>DISABILITY</b>				
No Disability	900 (88.5%)	312 (83.7%)	869 (79.6%)	3037 (83.6%)
Disability	117 (11.5%)	61 (16.4%)	223 (20.4%)	598 (16.5%)
<b>ARRESTED</b>				
Never arrested	710 (69.8%)	188 (50.4%)	694 (63.6%)	2758 (75.9%)
Been arrested	307 (30.2%)	185 (49.6%)	398 (36.5%)	877 (24.1%)
<b>DV AND/OR SEXUAL ASSAULT</b>				
Not survivor	721 (70.9%)	217 (58.2%)	746 (68.3%)	2841 (78.2%)
Survivor	296 (29.1%)	156 (41.8%)	346 (31.7%)	794 (21.8%)
<b>RURAL</b>				
Not Rural	720 (70.8%)	227 (60.9%)	747 (68.4%)	2607 (71.7%)
Rural	297 (29.2%)	146 (39.1%)	345 (31.6%)	1028 (28.3%)
<b>PARENT</b>				
Not parent of minor	638 (62.7%)	154 (41.3%)	706 (64.7%)	2587 (71.2%)
Parent of minor	379 (37.3%)	219 (58.7%)	386 (35.4%)	1048 (28.8%)

Table 1 shows which respondents are experiencing which kinds of justice problems. It is merely descriptive and does not account for relationships between characteristics and the outcome variable. To develop a more in-depth understanding of the relationship between respondent characteristics and justice problems, we must investigate the associations between independent variables and problem types.

*B. Associations Between Respondent Characteristics and Experiences of Justice Problems*

We used three nested models for each of the three problem categories. First, we assessed race, gender, age, income, and education. The results of these estimated logistic regressions for each problem type are shown in Model 1 (1a, 1b, and 1c). The second set of logistic regressions, Model 2 (2a, 2b, and 2c), includes the same variables as the first but adds additional variables: LGBTQ+ status, disability status, rurality, and whether the respondent is the parent of a child under age 18. Model 3 (3a, 3b, and 3c) contains the same variables as Models 1 and 2 and also incorporates both measures of trauma—whether the respondent has ever been arrested and whether they are a survivor of domestic violence and/or sexual assault. We nest models in this fashion so readers can evaluate the added value of each set of independent variables.

In Table 2, we present nested models for each problem type.



Table 2. Logit Models of Experiencing A Problem Cluster in the Past Year<sup>95</sup>

	Employment Problem			Family Structure Problem			Debt Problem		
	1*** OR (SD)	2*** OR (SD)	3*** OR (SD)	1*** OR (SD)	2*** OR (SD)	3*** OR (SD)	1*** OR (SD)	2*** OR (SD)	3*** OR (SD)
<b>RACE</b>									
Black	1.541*** (.189)	1.557*** (.193)	1.576*** (.196)	1.332+ (.221)	1.429* (.246)	1.454* (.255)	.925 (.110)	.949 (.114)	.932 (.114)
Latinx	1.275* (.142)	1.279* (.143)	1.361** (.154)	.834 (.135)	.882 (.146)	.998 (.169)	1.042 (.113)	1.089 (.119)	1.177 (.131)
Asian	.850 (.142)	.901 (.152)	.998 (.169)	.220*** (.088)	.288** (.117)	.364* (.149)	.607** (.105)	.685* (.120)	.791 (.140)
Multiracial	1.332* (.182)	1.338* (.185)	1.281+ (.178)	1.577** (.275)	1.710** (.308)	1.579* (.293)	1.123 (.148)	1.102 (.147)	1.038 (.141)
Other race	1.415 (.344)	1.488 (.362)	1.493 (.364)	1.117 (.381)	1.425 (.498)	1.457 (.517)	.959 (.229)	.998 (.241)	.993 (.243)
<b>GENDER</b>									
Men	1.060* (.086)	1.093 (.089)	1.153 (.101)	.995 (.114)	1.127 (.135)	1.193 (.158)	.817** (.062)	.840* (.065)	.808* (.068)
<b>AGE</b> (continuous)	.957*** (.003)	.959*** (.003)	.959*** (.003)	.967*** (.004)	.974*** (.004)	.973*** (.005)	.983*** (.002)	.985*** (.003)	.985*** (.003)
<b>INCOME</b> (ordinal)	.953* (.020)	.943** (.021)	.955* (.021)	.962 (.029)	.929* (.031)	.957 (.032)	.890*** (.018)	.891*** (.019)	.906*** (.019)
<b>EDUCATION</b>									
College educ.	1.282** (.116)	1.275** (.117)	1.344*** (.125)	.862 (.114)	.855 (.119)	.988 (.140)	.938 (.080)	.959 (.084)	1.049 (.093)
<b>QUEER</b>									
LGBTQ+		1.261* (.146)	1.154 (.136)		1.663*** (.257)	1.413* (.228)		1.393** (.156)	1.280* (.148)
<b>DISABILITY</b>		.830 (.101)	.737* (.092)		1.199 (.198)	.959 (.164)		1.586*** (.161)	1.368** (.144)
<b>RURAL</b>		1.136 (.104)	1.097 (.101)		1.526*** (.190)	1.436** (.183)		1.098 (.093)	1.057 (.091)
<b>PARENT</b>		1.308** (.112)	1.213* (.106)		3.807*** (.459)	3.226*** (.398)		1.487*** (.125)	1.324*** (.115)
<b>TRAUMA</b>									
Been arrested			1.488*** (.142)			2.662*** (.339)			2.183*** (.195)
DV/sexual assault surviv.			1.539*** (.159)			1.895*** (.266)			1.425*** (.138)
<b>Constant</b>	2.382*** (.379)	1.882*** (.327)	1.448* (.261)	.567* (.126)	.190*** (.050)	.109*** (.031)	1.599** (.242)	1.080 (.181)	.773 (.137)
<b>Pseudo R-squared</b>	.099	.103	.114	.060	.124	.165	.033	.045	.069

+p &lt; .10, \*p &lt; .05, \*\*p &lt; .01, \*\*\*p &lt; .001

<sup>95</sup> Reference groups are as follows: For RACE the reference group is white; for GENDER the reference group is women; for EDUCATION the reference group is people who have not gone to college; for QUEER the reference group is non-LGBTQ+; for DISABILITY the reference group is no disability; for RURAL the reference group is non-rural, and for PARENT, the reference group is people who do not have a child under age 18.

Ad hoc likelihood ratio tests determined that for all three problem categories, Model 2 was a better fit than Model 1, and Model 3 was a better fit than Models 1 and 2. This means that each subsequent model does a better job than the one before it in predicting whether a person will experience that type of justice problem.<sup>96</sup>

For each problem category, we list significant associations below:

### *Employment Problems*

- **Race:** Black and Latinx respondents are significantly more likely than white respondents to have an employment problem in the previous year (Model 3a). The odds of experiencing an employment problem in the previous year increase by 57.6% for people who identified as Black and 36.1% for people who identified as Latinx, compared to white respondents ( $p < .001$  and  $p = .007$ , respectively).<sup>97</sup>
- **Age:** For each one-year increase in age, the odds of experiencing an employment problem in the previous year decrease by 4.1% ( $p < .001$ ).
- **Income:** For every one-step increase in income interval, the odds of experiencing an employment problem in the past year decrease by 4.5% ( $p = .037$ ).
- **Education:** Respondents with at least a bachelor's degree have a 34.4% increase in their odds of experiencing an employment problem in the previous year compared to those with less education than a bachelor's degree. ( $p < .001$ ).
- **Disability:** Reporting a physical disability is associated with a 26.3% decrease in the likelihood of experiencing an employment problem in the previous year ( $p = .014$ ).
- **Parents:** Respondents with a child under 18 years old are 21.3% more likely to experience an employment problem in the previous year compared to respondents without children under 18 years old ( $p = .027$ ).
- **Trauma:** Respondents who had ever experienced either of the trauma variables—past arrest or surviving domestic violence and/or sexual assault—are more likely to face an employment problem in the previous year compared to those who did not. People who had ever been arrested are 48.8% more likely to have an employment problem in the last year compared to those who had never been arrested ( $p < .001$ ). Similarly, survivors of domestic violence and/or

---

<sup>96</sup> Fully understanding the factors that predict a respondent's chance of facing one of these civil justice challenges requires the best-fitting model. The ad hoc likelihood ratio tests demonstrate that our additional variables provide statistical value in understanding the distribution of civil justice problems. The increasing  $R^2$  values across the three models for each justice problem category demonstrates that the additional variables in each model account for a greater proportion of the variance for each justice problem compared to the restricted models.

<sup>97</sup> The difference between white respondents' and multiracial respondents' likelihood of experiencing an employment problem in the previous year was approaching significance (OR: 1.28,  $p = .075$ ). Before the trauma variables were added (Model 3a), multiraciality was significant (Models 1a and 2a).

sexual assault are 53.9% more likely to have an employment problem in the previous year compared to non-survivors ( $p < .001$ ).

#### *Family Structure Problems*

- Race: Black and multiracial respondents are more likely than white respondents to have a family structure problem in the previous year (see Model 3b). Black respondents experience a 45.4% increase in the likelihood of a family structure problem in the previous year as opposed to white respondents ( $p = .033$ ), and multiracial respondents experience a 57.9% increase in the likelihood of a family structure problem in the previous year compared to white respondents ( $p = .014$ ). Conversely, Asian respondents are 63.6% *less* likely than white respondents to experience a family structure problem in the previous year ( $p = .013$ ).
- Age: Every one-year increase in respondent age corresponds to a 2.7% reduction in the likelihood of experiencing a family structure problem in the previous year.
- LGBTQ+: LGBTQ+ respondents are 41.3% more likely to experience a family structure problem in the previous year compared to their non-LGBTQ+ counterparts ( $p = .032$ ).
- Rurality: Respondents who describe themselves as living in a rural location are 43.6% more likely than non-rural dwellers to experience a family structure problem in the previous year ( $p = .005$ ).
- Parents: Parents with children under 18 years old are 223% more likely (or 3.23 times more likely) to experience a family structure problem in the past year compared to people without children under 18 ( $p < .001$ ).
- Trauma: Respondents who had previously been arrested are 2.66 times more likely to experience a family structure problem in the previous year—a 166% increase in likelihood compared to those who have never been arrested ( $p < .001$ ). Lastly, survivors of domestic violence and/or sexual assault are 89.5% more likely than non-survivors to experience a family structure problem in the prior year ( $p < .001$ ).

#### *Debt Problem*

- Gender: Men experience a 19.2% decrease in the likelihood of facing a debt problem in the last year compared to women ( $p = .011$ ) (see Model 3c).
- Age: Respondents' likelihood of experiencing a debt problem in the previous year slightly decreases with age. Every one-year increase in respondent age corresponds to a 1.5% reduction in the likelihood of having a debt problem in the previous year ( $p < .001$ ).
- Income: For every one-step increase in income, respondents' likelihood of having a debt problem in the previous year decreases by 9.4% ( $p < .001$ ).

- LGBTQ+: Respondents who identify as LGBTQ+ are 28.0% more likely than their non-LGBTQ+ counterparts to experience a debt problem in the previous year ( $p = .033$ ).
- Disability: People who report having a physical disability are 36.8% more likely than those who do not have a physical disability to experience a debt problem in the previous year ( $p = .003$ ).
- Parents: Respondents with a child under age 18 are 32.4% more likely to experience a debt problem in the previous year compared to respondents who do not have children under 18 ( $p < .001$ ).
- Trauma: People who have ever been arrested or survived domestic violence and/or sexual assault are much more likely to experience a debt problem in the previous year compared to those who did not. Respondents who have been arrested are 2.18 times (or 118.26%) more likely to have a debt problem in the previous year compared to those who have never been arrested ( $p < .001$ ). Survivors of domestic violence and/or sexual assault are 1.43 times (or 42.46%) more likely to have a debt problem in the previous year compared to non-survivors ( $p < .001$ ).

To interpret the magnitude of these results, we estimated predicted probabilities of experiencing the three problem types across numerous variables using Model 3. We calculated predicted probabilities by setting each independent variable of interest to multiple set values while the values of all other independent variables were left as observed in the dataset.<sup>98</sup> See the Appendix for these figures (Figure 1A and Figure 2A).

*C. Effects of Multiple Characteristics on a Person's Chance of Experiencing a Justice Problem*

To further contextualize these results, we conducted a series of respondent simulations to estimate predicted probabilities of experiencing a category of problem for a respondent with multiple characteristics of interest. This strategy allows us to demonstrate the *added* utility of each subsequent set of variables.

We created three simulated hypothetical people (see Table 3):

---

<sup>98</sup> We estimated predicted probabilities using the margins command in STATA.

*Table 3. Three Hypothetical Americans and Their Demographic Characteristics*

	Person A	Person B	Person C
<i>Identifies as LGBTQ+?</i>	<b>No</b>	Yes	Yes
<i>Physical disability?</i>	<b>No</b>	Yes	Yes
<i>Lives in a rural area?</i>	<b>No</b>	Yes	Yes
<i>Parent of child under 18?</i>	<b>No</b>	Yes	Yes
<i>Previously arrested?</i>	<b>No</b>	<b>No</b>	Yes
<i>DV/sexual assault survivor?</i>	<b>No</b>	<b>No</b>	Yes

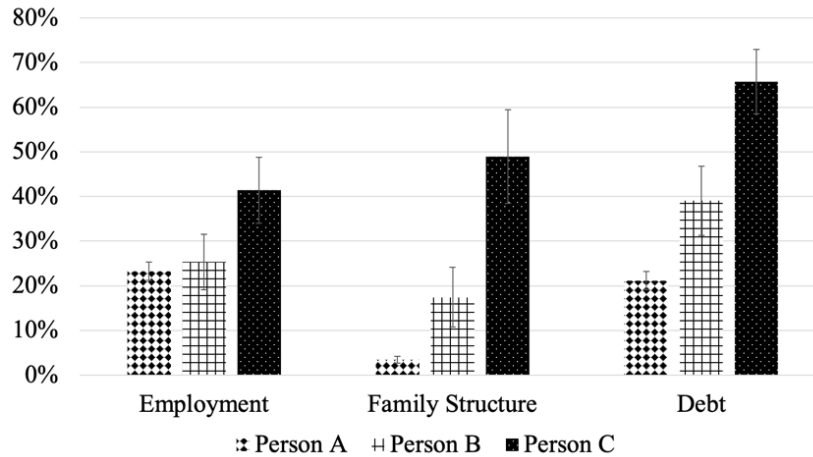
As Table 3 shows, Person A is set to zero for the independent variables introduced in Models 2 and 3: Person A is straight and cisgender, has no physical disability, does not live in a rural location, is not the parent of a child under age 18, has never been arrested, and is not a survivor of domestic violence or sexual assault. Person B is coded as positive for the Model 2 variables but set to zero for the trauma variables introduced in Model 3. Person B identifies as LGBTQ+, has a physical disability, lives in a rural location, is the parent of a child under age 18, and has *not* been arrested or survived domestic violence and/or sexual assault. Person C was coded positively for all of these variables. That is, Person C has the same characteristics as Person B but has previously been arrested and has survived domestic violence and/or sexual assault. All other independent variables were taken as observed.

Figure 1 presents the simulated probabilities for these three hypothetical Americans. The bars represent the average predicted probability of experiencing each type of justice problem the previous year.<sup>99</sup> All three problem types are characterized by the same upward trend in probability: Person A has the lowest simulated probability compared to Persons B and C, and Person C has the highest simulated probability compared to Persons A and B. Compared to Person A, Person C sees an 18.13 percentage point increase in having an employment problem the previous year (23.24% versus 41.37%), a 45.56 percentage point increase in experiencing a family structure problem in the previous year (3.40% versus 48.96%), and a 44.58 percentage point increase in experiencing a debt problem in the previous year (21.14% versus 65.72%).<sup>100</sup>

<sup>99</sup> The error bars represent the 95% confidence interval for the predicted probability value.

<sup>100</sup> We ran ad hoc simulated probabilities for Person A, B, and C and specified different income levels, races, and genders. The trends remained for all different identity simulations. Here, we present simulated probabilities that allowed all other independent variables to remain at their given values.

Figure 1. Predicted Probabilities for Three Hypothetical Americans with 95% Confidence Intervals



Since previous researchers have consistently identified race and income as predictors of civil justice problems, it is useful to contextualize the *added* value of measuring the other identity factors we include here. To do so, we created the same simulations, but this time, specified race and income. In Figure 2, we compare a person with racial and economic privilege—a white respondent with an annual income of \$125,000 to \$150,000—to a person without either privilege—a Black respondent with an annual income of \$20,000 to \$40,000.

Figure 2. Predicted Probabilities of Each Problem Cluster for Hypothetical Americans with 95% Confidence Intervals

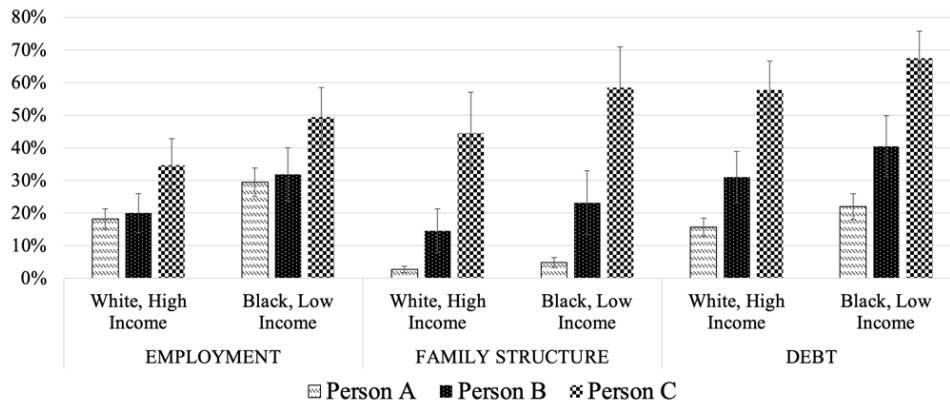


Figure 2 presents simulations for Person A, B, and C for a white, high-income respondent and a Black, low-income respondent for all three problem types. In all simulations, a Black, low-income American has a higher likelihood than a white,

high-income American of facing a civil justice problem. For example, the white, high-income version of “Person C” has a 34.72% chance of experiencing an employment problem the previous year; the same figure for a Black, low-income version of “Person C” is 49.46%.<sup>101</sup>

Figure 2 demonstrates that in addition to the known racial and economic factors associated with civil justice problems, the measures we identify (represented by Persons B and C) increase the likelihood of experiencing all three types of civil justice problems both for people with racial and economic privilege and for those without it. These results demonstrate that including additional identities and experiences in civil justice research provides a more thorough understanding of the demographic and experiential characteristics associated with justiciable problems.

#### *D. Exploring the Data with Individualized Predictions*

To let readers explore predicted probabilities in more depth, we provide three additional figures, each presenting multiple combinations of identity and experiential variables.

Figures 3, 4, and 5 present simulated probabilities for 192 combinations of people.<sup>102</sup> Each of the three circular figures corresponds to a problem type we examined: Figure 3 shows a person’s probability of experiencing an employment problem in the past year; Figure 4 does the same for family structure problems; Figure 5 for debt problems. The predicted probabilities are presented around the perimeter of the outermost circle, with three integers listed for each configuration. These integers correspond to income levels.<sup>103</sup>

To see the simulated probability for a hypothetical person, start in the center of the wheel and move outward, selecting an identity at each layer. For instance, using Figure 3 (employment problems), select a race from the center circle at the core of

---

<sup>101</sup> The purpose of comparing high-income white respondents to low-income Black respondents is to compare the *known extremes* of inequality. Of course, it is possible to compare just one of these axes in the same way: low-income white respondents to low-income Black respondents, for example, or high-income white respondents to high-income Black respondents. As the regression results we have shared suggest, this results in the same pattern.

<sup>102</sup> We estimated predicted probabilities using the margins command in STATA.

<sup>103</sup> These three integers correspond to low, middle, and high income levels. For low income, we selected the lowest income interval measured in our survey: family annual income of \$0 to \$19,999. For high income, we selected the highest income interval from the survey: family annual income of \$150,000 and above. For middle income, we used the interval that contained the U.S median annual household income for the year of the survey (2021): \$60,000 to \$79,999 family annual income. According to the U.S. Department of Housing and Urban Development, the median family annual income in 2021 was \$79,900. Notice, Todd M. Richardson, Gen. Deputy Assistant Sec’y for Pol’y Dev. & Rsch., HUD, Estimated Median Family Annual Income for Fiscal Year (FY) 2021, <https://www.huduser.gov/portal/datasets/il/il21/Medians2021.pdf> [<https://perma.cc/4VFX-H2WB>] (last visited Sept. 23, 2022).

the wheel: white, Black, Latinx, or Asian.<sup>104</sup> In the next circle out, select the respondent's gender, then parental status, LGBTQ+ identification, and in the last layer of the wheel, select whether the hypothetical respondent experienced at least one of the two types of trauma we included.<sup>105</sup> Each path through the wheel ends in a set of three numbers, reported in percentages. As the key indicates, these three numbers correspond to income levels.

For example, selecting a person who is Black, a man, a nonparent, queer, and has experienced trauma leads to a set of three numbers: "46%, **43%**, and 39%." The predicted probability of this hypothetical American having experienced an employment problem in the past year is 46% if their annual household income is low, 43% if it is in the middle, and 39% if it is high.

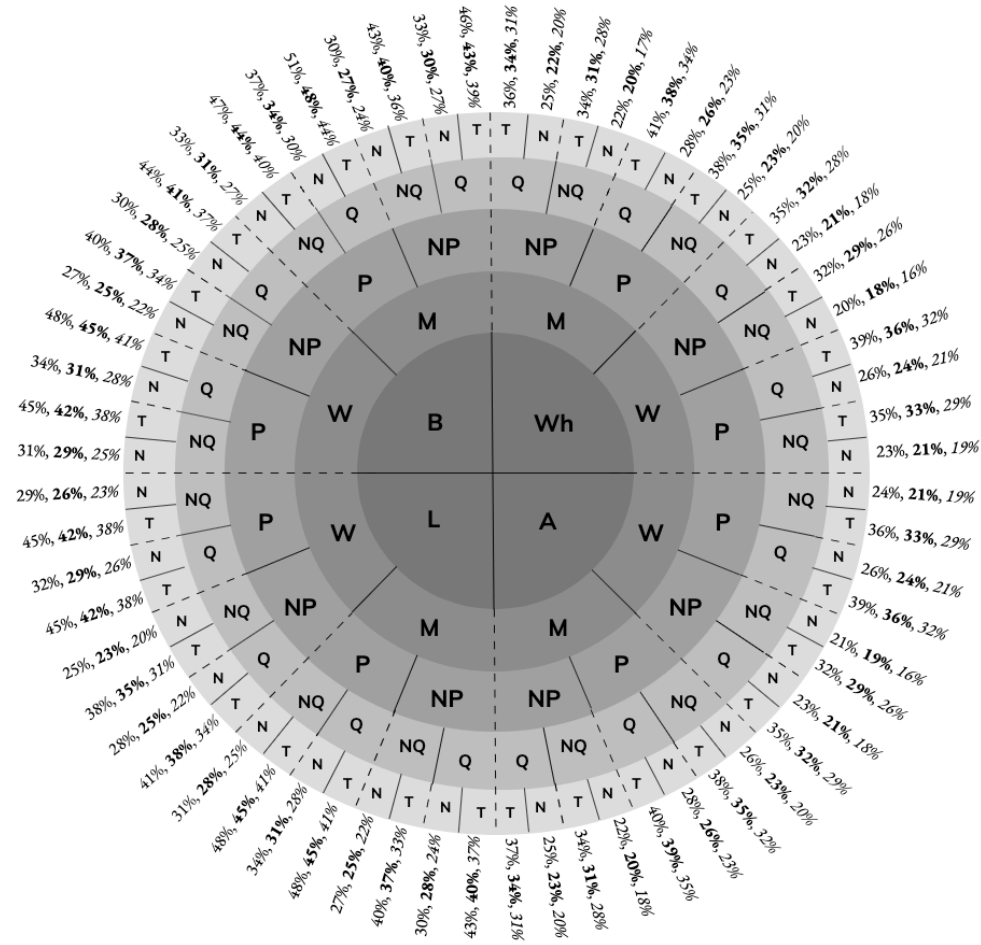
---

<sup>104</sup> To simplify these complex figures, we only present simulated probabilities for our four largest racial groups. Simulated probabilities for multiracial respondents and respondents identified as "other race" are available upon request.

<sup>105</sup> The two trauma variables—arrest and survivor of domestic violence and/or assault—are collapsed into one binary trauma variable. Respondents coded "yes" for arrest and/or surviving domestic violence and/or sexual assault were coded as "yes" for the binary trauma variable. We then reran the final binary logistic regression models for each problem type to produce the simulated probabilities in Figures 3, 4, and 5.



Figure 3. Predicted Probabilities of Experiencing an Employment Problem in the Past Year for Various Attribute Combinations

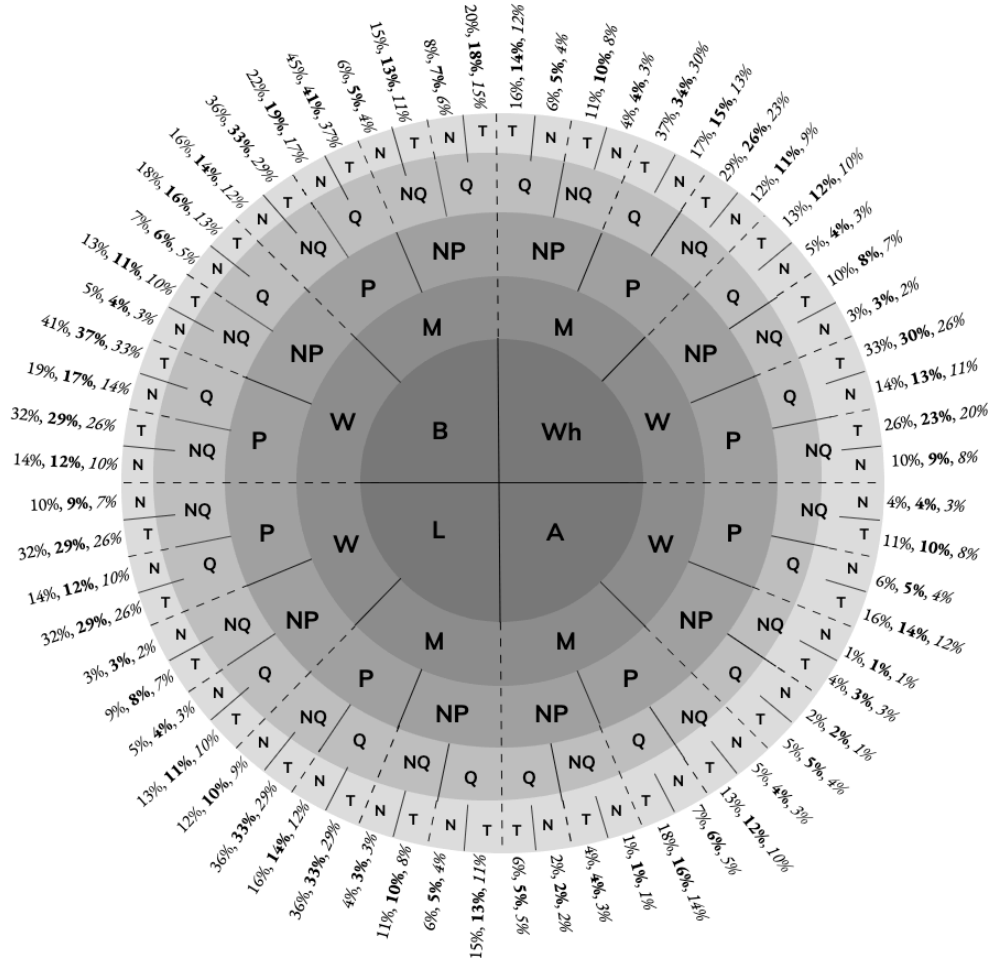


Each set of predicted probabilities is reported in a list of three numbers. Each number corresponds to a different income level: low %, **middle** %, *high* %.

KEY:

- A** = Asian; **B** = Black; **L** = Latinx; **Wh** = White
- M** = Men; **W** = Women
- P** = Parent of a minor child; **NP** = Not a parent of a minor child
- Q** = LGBTQ+; **NQ** = Not LGBTQ+
- T** = Trauma survivor; **N** = Not survivor of either trauma type in survey

Figure 4. Predicted Probabilities of Experiencing a Family Structure Problem in the Past Year for Various Attribute Combinations

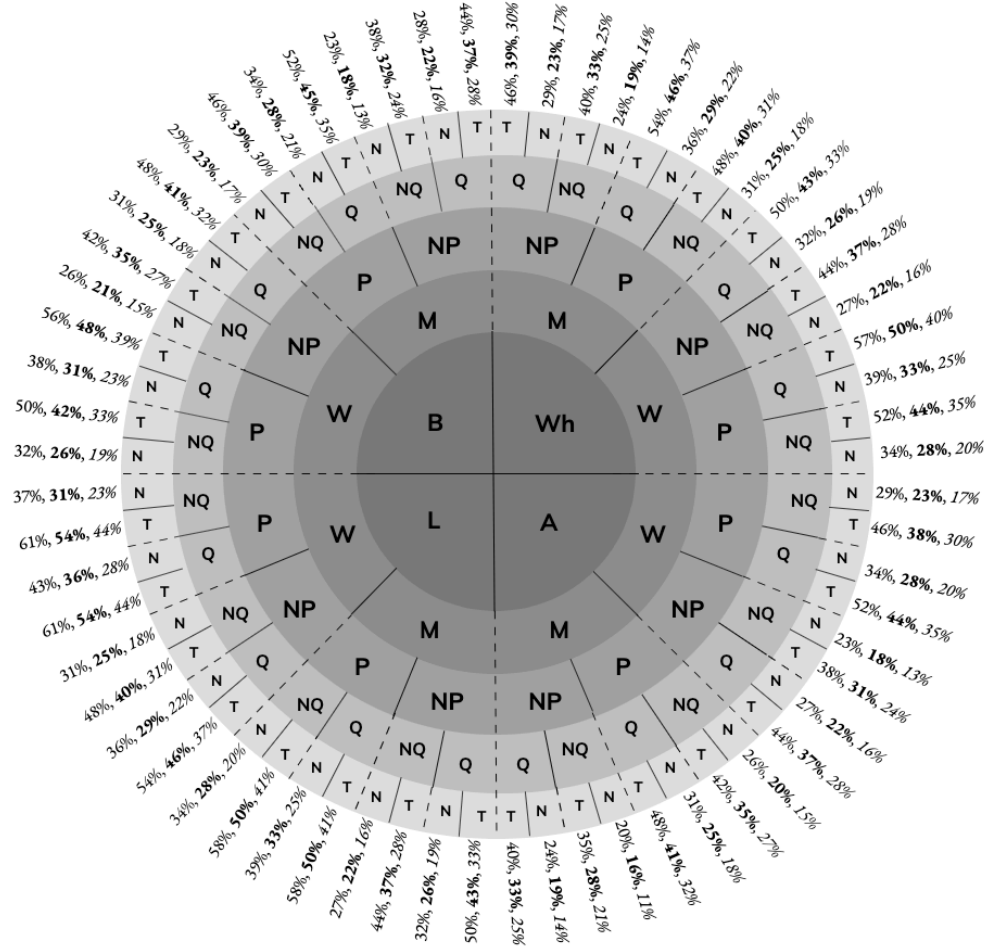


Each set of predicted probabilities is reported in a list of three numbers. Each number corresponds to a different income level: low %, middle %, high %.

KEY:

- A = Asian; B = Black; L = Latinx; Wh = White
- M = Men; W = Women
- P = Parent of a minor child; NP = Not a parent of a minor child
- Q = LGBTQ+; NQ = Not LGBTQ+
- T = Trauma survivor; N = Not survivor of either trauma type in survey

Figure 5. Predicted Probabilities of Experiencing a Debt Problem in the Past Year for Various Attribute Combinations



Each set of predicted probabilities is reported in a list of three numbers. Each number corresponds to a different income level: low %, **middle** %, *high* %.

KEY:

- A = Asian; B = Black; L = Latinx; Wh = White
- M = Men; W = Women
- P = Parent of a minor child; NP = Not a parent of a minor child
- Q = LGBTQ+; NQ = Not LGBTQ+
- T = Trauma survivor; N = Not survivor of either trauma type in survey

Figures 3, 4, and 5 are important because they visualize intersectionality: considering numerous identities and experiences simultaneously. Using these figures to explore predicted probabilities allows readers to compare the civil legal problems experienced by various positionalities.

#### IV. DISCUSSION: THE BREADTH OF CIVIL JUSTICE NEEDS

Instead of proceeding in the same order as the results above, we begin our discussion by using the most recent figures presented to explain the importance of intersectionality for access to justice research and practice. Then, in the sections that follow, we discuss our findings with respect to individual variables. In Section B, we discuss the effects of the first group of variables (race, gender, age, and class) across models; in Section C, we discuss the effects of the second group of variables (LGBTQ+ identity, disability, rurality, and parental status); and in Section D, we discuss the third group of variables (indicia of trauma).

##### *A. The Importance of Intersectionality in Understanding the Distribution of Civil Justice Problems*

Our findings underscore the centrality of race and class in civil justice problems' distribution and detail the tremendous variation that comes with other identities and experiences. Figures 3, 4, and 5 show extensive combinations of variables with corresponding simulated probabilities of facing employment, family structure, or debt problems. These combinations illustrate the huge range of risk for civil justice problems within groups—groups that research often considers in monolithic terms. Take, for example, a low-income Latinx woman—a prototypical “low-income person of color” at a high risk for justice problems. Depending on other characteristics, her predicted probability of experiencing a legal problem related to family structure (Figure 4) ranges from 3% on the low end to 36% on the high end. Or, consider Black Americans in the highest income bracket. Within the quadrant of Figure 4 that corresponds to Black respondents, some high-income Black Americans' predicted probability of experiencing a family structure problem is as low as 3%. But for other subgroups of high-income Black Americans, the predicted probability is up to 37%. Within demographic groups, understanding which people are in a 3% risk group and which people are in a 36% or 37% risk group is crucial. Understanding groups at a more detailed level can help create civil justice interventions that will have the greatest impact on the most people.

The predicted probability figures also reveal places where extant approaches have overlooked high-risk subgroups within low-risk groups. For example, middle-income white people are not at comparatively high risk of debt problems. Consider a straight, childless, middle-income white man who has not experienced either type of trauma we investigated. He has a 19% predicted probability of experiencing a debt problem in the past year, which is lower than most other groups (Figure 5). But consider another white middle-income person—a queer woman who has a child and

was arrested once in the past. For *this* white middle-income person, the predicted probability is not 19%; it's 50%.

Figures 1 and 2 illustrate the importance of intersectionality from a different angle. Recall that these Figures presented sets of hypothetical Americans in order to visualize the effects of multiple marginalized identities on a person's chance of encountering civil legal problems. Doing so allows us to see whether the factors introduced in Models 2 and 3 in Table 2 (rurality, disability, and so on) mattered once more commonly studied factors (Model 1 in Table 2) were accounted for.

Since it is undisputed that Black people and people with low incomes are at the highest risk for civil justice problems, and that white people and people with high incomes are at the lowest risk, we used these two distinctions (Black/white and high income/low income) to test how much the other variables mattered in addition to these. We looked at a Black, low-income person's chances and a white, high-income person's chances of experiencing each justice problem type under three conditions<sup>106</sup> to see how each set of variables mattered for a Black, low-income person and a white, high-income person.

At every equivalent step, a Black, low-income person's chances of experiencing a justice problem are higher than a white, high-income person's chances of experiencing that type of problem. Given previous research, any other result would have been surprising. The surprising result was how much the *other* characteristics mattered as well—not apart from, but in addition to, race and income.<sup>107</sup> These results show that the greatest promise for civil justice interventions may lie in adopting an intersectional approach.

Examining intersectional factors reveals the range of civil justice problems' manifestation within groups often written about in monolithic terms. It is undisputedly true that income and race are the biggest predictors of civil legal need. Compared overall to middle- and high-income white people, low-income people of color are at greater risk for justice problems, have more problems, and experience severer consequences. But to move access to justice reform forward and figure out how to allocate scarce resources, we need to understand the most pressing areas of need *within* groups. A finer-grained approach can help—and can also identify high-risk subgroups whose problems have been hidden or obscured by existing approaches.

---

<sup>106</sup> These conditions were: Person A (negative for all of the variables introduced in Models 2 and 3); Person B (positive for the variables introduced in Model 2 but negative for the variables introduced in Model 3); and Person C (positive for the variables introduced in Models 2 and 3).

<sup>107</sup> Regardless of which identity we assigned a person at the outset, for civil justice problems related to family structure and debt, Person B was about twice as likely to face a justice problem compared to Person A, and Person C was about twice as likely to face a justice problem compared to Person B. For employment problems, the difference between both Persons A and their respective Person B was small. However, for employment problems, each Person C was significantly more likely to experience a problem than their respective Person A.

*B. Deepening Our Understanding of Known Axes of Civil Justice Inequality*

As to race, gender, age, and class, our findings echo the studies summarized above;<sup>108</sup> thus, we focus primarily on the places we contribute something new.

*1. Race*

As Table 2 shows, race was significantly associated with experiencing multiple categories of justice problems. Black and Latinx respondents were significantly more likely than white respondents to have an employment problem in the past year,<sup>109</sup> and multiracial respondents were significantly more likely than white respondents to have an employment problem in the previous year in Models 1a and 2a.<sup>110</sup> The pattern was similar among Black and multiracial respondents for family structure problems, though not among Latinx respondents.

With few exceptions, where race is significant in the first model (1a, 1b, or 1c), it remains significant across all models. This result underscores the pervasiveness of racial inequality in civil justice experiences and shows that race is not acting as a proxy for other characteristics we measured. Consider, for example, Black and Latinx identity in the employment category. Black respondents and Latinx respondents are significantly more likely than white respondents to experience an employment problem, and this remains true in Models 1a, 2a, and 3a. Thus, Black and Latinx people's increased chances of encountering an employment problem are not due to other factors we examined—for example, not because Black or Latinx respondents have lower incomes.

Our results provide evidence that institutional racism, not individual characteristics associated with race, creates civil justice inequality. Race matters independent of other factors. As Richard Rothstein explains in *The Color of Law*, historically, those with power have tried to dismiss narratives about institutional racism's creation of social ills—like housing segregation—by relying on alternative explanations like income or education.<sup>111</sup> Controlling for alternative explanations demonstrates that the effects of racism transcend other axes of inequality that are intimately related to race. Thus, our findings highlight that while poor communities of color are in greatest need of civil justice outreach, such efforts should focus on communities of color across income levels, too. Institutional racism affects people of color across classes.<sup>112</sup>

---

<sup>108</sup> See *supra* Part I.B.

<sup>109</sup> This is particularly noteworthy since Black and Latinx Americans, along with poorer Americans, were more likely than others to identify an employment-related problem as their “most serious legal problem.” IAALS 2021, *supra* note 3, at 11.

<sup>110</sup> In Model 3a, the statistical relationship was approaching significance ( $p = .075$ ).

<sup>111</sup> See RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017).

<sup>112</sup> As many readers will know, the effects of being Black in the U.S. have long been exacerbated by legal structures, historical and contemporary, and in civil and criminal law,

Additionally, our results point to the need to study associations between multiracial identity and civil justice, as well as experiences of racial groups that quantitative analyses often force into the “other” category. Even though oversampling non-white respondents gave us a more detailed picture of race than many previous studies,<sup>113</sup> there remain shortcomings in our ability to analyze race as finely as we would like. For example, our proportion of Native American respondents remained too low to analyze separately, and we were unable to create fine distinctions within racial groups (e.g., to distinguish Vietnamese Americans from Chinese Americans).

## 2. Class

We measured social class using education and income, both of which are useful for different reasons.<sup>114</sup> Our analyses showed that they were sufficiently uncorrelated that it was worth including both in our logit models.<sup>115</sup> Our results suggest that income is a better predictor of a person’s likelihood of facing one of the problems we examined. For every one-step increase in income,<sup>116</sup> the odds of experiencing an employment problem decrease by 4.5% ( $p = .037$ ). Similarly, for every one-step increase in income, respondents’ likelihood of experiencing a debt problem decreases by 9.4% ( $p < .001$ ). These results, and their significance across all three models for both problem categories (1a, 2a, 3a, 1c, 2c, and 3c), suggest that

---

leading to deep Black-white inequalities that go well beyond income level. See William Y. Chin, *Legal Inequality: Law, the Legal System, and the Lessons of the Black Experience in America*, 16 HASTINGS RACE & POVERTY L.J. 109 (2019); Scott DeVito, *Of Bias and Exclusion: An Empirical Study of Diversity Jurisdiction, Its Amount-In-Controversy Requirement, and Black Alienation from U.S. Civil Courts*, 13 GEO. J. L. & MOD. CRITICAL RACE PERSP. 1 (2021).

<sup>113</sup> For example, in the IAALS study, with 10,000 respondents, five racial groups were considered: Black (non-Hispanic), White (non-Hispanic), Hispanic, “Multiple” (non-Hispanic), and “Other” (non-Hispanic). IAALS 2021, *supra* note 3, at 23. This data does not allow identification of Asian Americans or Native Americans, nor does it allow differentiation between groups of multiracial Americans. See *id.*

<sup>114</sup> Sociologists have long debated the best way to measure class. See, e.g., PIERRE BOURDIEU, *DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGEMENT OF TASTE* (Richard Nice trans., 1984); Annette Lareau, *Introduction: Taking Stock of Class*, in *SOCIAL CLASS: HOW DOES IT WORK?* 3–24 (Annette Lareau & Dalton Conley eds., 2008); Susan T. Fiske, Miguel Moya, Ann Marie Russell & Courtney Bearn, *The Secret Handshake: Trust in Cross-Class Encounters*, in *FACING SOCIAL CLASS: HOW SOCIETAL RANK INFLUENCES INTERACTION* 236 (Susan T. Fiske & Hazel Rose Markus eds., 2012).

<sup>115</sup> The correlation between income and education in our data is  $r = .39$ . To assess for multicollinearity, we ran the collin command in STATA after our binary logistic regressions to ensure all variance inflation factor (VIF) values were less than 10—the recommended cutoff for detecting collinearity. See Alan C. Acock, *A Multiple Regression: Combinations of Variables May Cause Problems*, in *A GENTLE INTRODUCTION TO STATA* 287–88 (4th ed. 2014).

<sup>116</sup> See *supra* note 108 to review our operationalization of income.

the more money a person makes, the less likely they are to encounter a civil legal problem related to debt or employment—and that this is not due to other factors connected to income, such as education or past arrest.<sup>117</sup>

Education's effects were less intuitive. Having a four-year college degree<sup>118</sup> was not significantly associated with facing a family structure or debt problem. It was related to employment, but in the opposite direction that the income results would predict; respondents with a four-year college degree have a 34.4% increase in their odds of experiencing an employment problem compared to those without a four-year college degree ( $p < .001$ ). At first, this association may seem counterintuitive; shouldn't people with more education be more likely to have secure and stable employment, which would translate into fewer justice problems?

The result may be explained by cultural capital's association with a greater sense of entitlement to assert rights, which research has documented in other contexts.<sup>119</sup> People with more education may feel more deserving of just treatment in the workplace and may have a lower threshold of what they consider a "problem." Additionally, education is associated with job type, and job type is associated with people's perception of some employment problems and rights-claiming.<sup>120</sup>

### 3. *Age and Gender*

Older age acts as an "insulator" from certain civil justice problems. As IAALS found, "[y]ounger Americans experience[] negative emotions and negative impacts on their mental health as a result of their legal problems at higher rates than Americans in older age groups."<sup>121</sup> This may be a more general effect of age; studies in other contexts have found that resilience accompanies age.<sup>122</sup>

---

<sup>117</sup> We found no such association for family structure. The relationship between income and family structure is in the same direction as employment and debt, though its significance was not consistent across models.

<sup>118</sup> By "possession of a college degree," we are including possession of degrees for which a four-year college degree is a prerequisite, such as a JD or a PhD.

<sup>119</sup> Kathryn M. Young & Katie R. Billings, *Legal Consciousness and Cultural Capital*, 54 L. & SOC'Y REV. 33 (2020).

<sup>120</sup> The smallest percentage of employment civil rights complaints comes from people in blue collar jobs, as compared to people who work in sales, service, or administration, or in managerial or professional jobs. ELLEN BERREY, ROBERT L. NELSON & LAURA BETH NIELSEN, RIGHTS ON TRIAL: HOW WORKPLACE DISCRIMINATION LAW PERPETUATES INEQUALITY 59 (2017).

<sup>121</sup> IAALS 2021, *supra* note 3, at 77.

<sup>122</sup> Erdman B. Palmore, *Research Note: Ageism in Canada and the United States*, 19 J. CROSS-CULTURAL GERONTOLOGY 41 (2004); Gill Windle, David A. Markland & Robert T. Woods, *Examination of a Theoretical Model of Psychological Resilience in Older Age*, 12 AGING & MENTAL HEALTH 285 (2008); Janine L. Wiles, Kirsty Wild, Ngaire Kerse & Ruth E.S. Allen, *Resilience from the Point of View of Older People: 'There's Still Life Beyond a Funny Knee,'* 74 SOC. SCI. & MED. 416 (2012); Alexandra L. Terrill, Ivan R. Molton, Dawn M. Ehde, Dagmar Amtmann, Charles H. Bombardier, Amanda E. Smith & Mark P. Jensen,



Recall that for each one-year increase in a respondent's age, their odds of having an employment problem decrease by 4.1% ( $p < .001$ ), their odds of a family structure problem decrease by 2.7% ( $p < .001$ ), and their odds of a debt problem decrease by 1.5% ( $p < .001$ ). Although these results accord with previous research, it is *not* true that older Americans face few civil justice challenges. Ageism is a pervasive problem for older Americans in numerous realms of life<sup>123</sup>—and with a steep psychological toll.<sup>124</sup> Low-income seniors face particularly acute challenges.<sup>125</sup> Some justice problems, such as fraud victimization and abuse in residential facilities, are more likely to affect older Americans as well.<sup>126</sup> It is important not to overgeneralize from our results since many of the problems we investigate here would naturally skew younger: divorces and custody disputes are more common for people in their thirties than people in their sixties simply because of the typical life course.<sup>127</sup> Gender, too, influences how age affects a person's odds of encountering a civil legal problem, with patterns that shift over a lifetime.<sup>128</sup> As with race, the age effects remained significant across all three models, suggesting that they are not due to other factors in our model.

Of the three problem types we examined, the only category significantly associated with gender was debt. Men are 19.2% less likely than women to experience a debt problem in the past year ( $p = .011$ ). Given extensive documentation of the gender wage gap across industries,<sup>129</sup> these results are not

---

*Resilience, Age, and Perceived Symptoms in Persons with Long-Term Physical Disabilities*, 21 J. HEALTH PSYCH. 640 (2016).

<sup>123</sup> Theresa M. Nemmers, *The Influence of Ageism and Ageist Stereotypes on the Elderly*, 22 PHYSICAL & OCCUPATIONAL THERAPY GERIATRICS 11 (2004); Donna M. Wilson, Begoña Errasti-Ibarrondo & Gail Low, *Where Are We Now in Relation to Determining the Prevalence of Ageism in this Era of Escalating Population Ageing?*, 51 AGING RSCH. REVS. 78 (2019).

<sup>124</sup> Yoav S. Bergman & Dikla Segel-Karpas, *Aging Anxiety, Loneliness, and Depressive Symptoms Among Middle-Aged Adults: The Moderating Role of Ageism*, 290 J. AFFECTIVE DISORDERS 89 (2021).

<sup>125</sup> See generally David Godfrey, *In Search of Adequate Funding for Legal Assistance for Low-Income Seniors*, 32 BIFOCAL 1 (2010) (describing the challenge of meeting the legal needs of low-income seniors).

<sup>126</sup> See Katalin Parti, *Explaining Online Fraud Victimization of Older Adults via Cyber Routines and Lifestyles*, 5 INNOVATION IN AGING 765 (2021); MARK LACHS, JEANNE A. TERESI & MILDRED RAMIREZ, DOCUMENTATION OF RESIDENT TO RESIDENT ELDER MISTREATMENT IN RESIDENTIAL CARE FACILITIES (2014); RON ACIERNO, MELBA HERNANDEZ-TEJADA, WENDY MUZZY & KENNETH STEVE, NATIONAL ELDER MISTREATMENT STUDY (2009).

<sup>127</sup> See Colette Allred, *Age Variation in the Divorce Rate, 1990 & 2017*, BOWLING GREEN ST. UNIV. (2019), <https://www.bgsu.edu/ncfmr/resources/data/family-profiles/allred-age-variation-div-rate-fp-19-13.html> [<https://perma.cc/F4SJ-8SDZ>].

<sup>128</sup> Sandefur & Teufel, *supra* note 8, at 778.

<sup>129</sup> See, e.g., Katie Meara, Francesco Pastore & Allan Webster, *The Gender Pay Gap in the USA: A Matching Study*, 33 J. POPULATION ECON. 271 (2020) (explaining the direct effect

surprising. But generally, we found no significant gender difference between men's and women's odds of experiencing the civil justice problems we examined.<sup>130</sup>

### C. Additional Demographic Factors Associated with Civil Justice Problems

Our findings provide strong evidence that numerous demographic factors have long been missing from the access to justice conversation. Queerness, physical disability, rurality, and parental status are all significantly associated with people's chances of experiencing at least one category of justice problem.

Many legal help strategies entail interventions that relate directly to group identity. But our results suggest that like race and class, these factors are associated with experiencing civil justice problems *across the board*—even problems that ostensibly have nothing to do with queerness, rurality, disability, or whether someone is a parent. The fact that these factors were significant on top of race, gender, age, and class underscores the importance of taking these factors into account in investigating everyday people's civil justice needs.

#### 1. LGBTQ+ Identity

Our results document a queer civil justice gap. Respondents who identify as LGBTQ+ are 41.3% more likely to have faced a family structure problem in the previous year ( $p = .032$ ) and 28.0% more likely to have experienced a debt problem ( $p = .033$ ) than their heterosexual, cisgender counterparts.<sup>131</sup> They are also significantly more likely to experience an employment problem (Model 2a), though the effect was not significant when trauma variables were included (Model 3a).<sup>132</sup>

---

of being a female on wages and also how gender wage gaps interact with other factors such as part-time working, parenthood, unionization, and more); Monica Fisher, Paul A. Lewin & Ryanne Pilgeram, *Farmworkers and the Gender Wage Gap: An Empirical Analysis of Wage Inequality*, 44 APPLIED ECON. PERSPECTIVES & POL'Y 2145 (2021); Peter T. Calcagno & Meg M. Montgomery, *The Gender Wage Gap: An Analysis of US Congressional Staff Members*, 188 PUB. CHOICE 183 (2021); Brianna Bostian Yassine, Jay W. Rojewski & Montrece McNeill Ransom, *Gender Inequity in the Public Health Workforce*, 28 J. PUB. HEALTH MGMT. & PRAC. 390 (2022); Milan Markovic & Gabriele Plickert, *The Gender Pay Gap and High-Achieving Women in the Legal Profession*, L. & SOC. INQUIRY (2022).

<sup>130</sup> Sanderfur and Teufel find that “[d]ifferences in justiciable events and hardships by gender are no longer statistically different after accounting for age or life expectancy.” Sanderfur & Teufel, *supra* note 8, at 778, n.95.

<sup>131</sup> See also *infra* Appendix, Figure 1. A respondent who identifies as LGBTQ+ experiences a 3.0 percentage point increase in their likelihood of experiencing a family structure problem in the prior year (9.91–12.91%) and a 4.93 percentage point increase in their likelihood of experiencing a debt problem (29.60–34.53%) compared to straight, cisgender respondents.

<sup>132</sup> Extensive research documents widespread employment discrimination for LGBTQ+ people. A study by the Williams Institute at UCLA found that “Over 40% of LGBT workers (45.5%) reported experiencing unfair treatment at work, including being fired, not hired, or

These findings suggest that LGBTQ+ identity is a major risk factor for civil justice problems.<sup>133</sup>

Many legal aid interventions for queer people center around legal problems directly related to LGBTQ+ identity, such as anti-gay workplace discrimination or legal name changes for transgender people.<sup>134</sup> Although these are important interventions, our findings show that LGBTQ+ Americans' civil justice challenges go beyond LGBTQ+-specific issues. Being LGBTQ+ significantly increases a person's chances of experiencing debt and family structure problems, even though on their face, these problems may have little to do with queerness. Although qualitative work is better suited to explain *why* LGBTQ+ Americans experience more justice problems, the disparity is striking.

We might imagine numerous routes to address the queer civil justice gap. Existing legal aid organizations could design outreach to LGBTQ+ individuals. Legal health checkup-style interventions<sup>135</sup> could be offered in social arenas

---

harassed because of their sexual orientation or gender identity at some point in their lives.” BRAD SEARS, CHRISTY MALLORY, ANDREW R. FLORES & KERITH J. CONRON, *LGBT PEOPLE'S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT 1* (2021). Nearly one-third of LGBTQ+ workers had experienced this in the past five years. *Id.*

<sup>133</sup> Moreover, discrimination of multiple forms exerts a mental toll for the people who experience it, which harms both physical and mental health. See Ilan H. Meyer, *Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence*, 129 *PSYCH. BULL.* 674 (2003); Elizabeth A. Pascoe & Laura Smart Richman, *Perceived Discrimination and Health: A Meta-Analytic Review*, 135 *PSYCH. BULL.* 531 (2009). Experiences of anti-LGBTQ+ discrimination have also been linked to suicidal ideation. See Megan Sutter & Paul B. Perrin, *Discrimination, Mental Health, and Suicidal Ideation Among LGBTQ People of Color*, 63 *J. COUNSELING PSYCH.* 98 (2016); Michael King, Joanna Semlyen, Sharon See Tai, Helen Killaspy, David Osborn, Dmitri Popelyuk & Irwin Nazareth, *A Systematic Review of Mental Disorder, Suicide, and Deliberate Self-Harm in Lesbian, Gay and Bisexual People*, 8 *BMC PSYCH.* 70 (2008).

<sup>134</sup> For example, many queer legal organizations such as Lambda Legal offer resources to help transgender people with the legal paperwork involved in changing their names and driver's licenses. See, e.g., *Resources for Changing Your Documents*, LAMBDA LEGAL, <https://www.lambdalegal.org/know-your-rights/article/trans-changing-your-documents-resources> [<https://perma.cc/C3TC-HT9B>] (last visited Sept. 23, 2022). Pro bono assistance with name changes and gender documentation is also available from some private law firms. See, e.g., *LGBTQ Legal Services: Transgender Name Change Clinic*, ROBINS KAPLAN, LLP, <https://www.robinskaplan.com/resources/events/2021/03/lgbtq-legal-services-transgender-name-change-clinic> [<https://perma.cc/GN5W-6PV8>] (last visited Sept. 23, 2022). Many law schools have similar clinics, including Albany Law School, the Beasley School of Law at Temple University, Berkeley Law School, Gonzaga University School of Law, John Marshall Law School, Stanford Law School, UC Irvine Law School, the University of Minnesota Law School, the University of New Mexico School of Law, the University of San Diego School of Law, and others.

<sup>135</sup> For an example of a legal health checkup that has been used in Canada, see *Legal Health Check-Up*, HALTON LEGAL CLINIC, <https://www.legalhealthcheckup.ca/en/> [<https://perma.cc/ZY6M-C6TA>] (last visited Sept. 23, 2022); see also Ab Currie,

frequented by LGBTQ+ people, such as certain sports leagues, music venues,<sup>136</sup> or social groups.<sup>137</sup> We might imagine legal aid partnerships with brands that have large queer customer bases.<sup>138</sup> Closing the queer civil justice gap will mean helping queer people solve justice problems that are not, on their face, “queer” ones.<sup>139</sup>

## 2. Disability

Physical disability is associated with a 26.3% decrease in the likelihood of experiencing an employment problem the previous year ( $p = .014$ ) and a 36.8% increase in experiencing a debt problem ( $p = .003$ ) compared to respondents without physical disabilities. Why do these trends point in opposite directions?

One possible explanation is that unlike the other populations we investigate in Models 2 and 3, major longstanding federal legislation—the Americans with Disabilities Act (ADA)—exists to combat discrimination against people with

---

*Overcoming Access Hesitancy with the Legal Health Check-up*, SLAW (Nov. 30, 2021), <http://www.slw.ca/2021/11/30/overcoming-access-hesitancy-with-the-legal-health-check-up/> [<https://perma.cc/WR3Y-W9CK>]. For a U.S. example, see *Systematic Review of Social Risk Screening Tools: Legal Checkup*, KAISER PERMANENTE, <https://sdh-tools-review.kpwashingtonresearch.org/screening-tools/legal-checkup> [<https://perma.cc/YZE5-LLSM>] (last visited Sept. 23, 2022).

<sup>136</sup> See, e.g., Jodie Taylor, *Queer Temporalities and the Significance of ‘Music Scene’ Participation in the Social Identities of Middle-Aged Queers*, 44 SOCIO. 893, 896 (2010) (illuminating “the significance of music-related scene participation in the lives of queer-identified people”).

<sup>137</sup> For these kinds of interventions, it is important to choose racially inclusive spaces. Historically, queers of color have been alienated from and within a variety of queer spaces, and it is crucial that interventions along these lines are inclusive for queer people of color, see, e.g., Luis Manuel Garcia-Mispireta, *Whose Refuge, This House? The Estrangement of Queers of Color in Electronic Dance Music*, in THE OXFORD HANDBOOK OF MUSIC AND QUEERNESS (Fred Everett Maus & Sheila Whiteley eds., 2018) and poor and low-income queer people, see, e.g., Eric Knee, *Gay, but Not Inclusive: Boundary Maintenance in an LGBTQ Space*, 41 LEISURE SCI. 499, 499 (2019) (examining the “ways in which an LGBTQ ‘gayborhood’ creates and maintains boundaries of exclusion”). Additionally, interventioned must include all dimensions of the queer community, and take care not to focus primarily on cisgender queer people or queer people who identify as gay or lesbian, see, e.g., Joshua G. Parmenter, Renee V. Galliher & Adam D.A. Maughan, *LGBTQ+ Emerging Adults’ Perceptions of Discrimination and Exclusion Within the LGBTQ+ Community*, 12 PSYCH. & SEXUALITY 289, 290 (2020) (examining “[p]articipants [who] reported on experiences of biphobia, acephobia, transphobia, gatekeeping the community, LGBTQ+ people of colour’s experiences of racism within the community, other forms of oppression . . .”).

<sup>138</sup> See, e.g., *Our Values*, TOMBOYX, <https://tomboyx.com/pages/community-1> [<https://perma.cc/58PF-T6DK>] (last visited Sept. 23, 2022); *A Brief Intro*, FLAVNT STREETWEAR, <https://www.flavnt.com/our-story-2> [<https://perma.cc/7JAR-9J9L>] (last visited Sept. 23, 2022); *About*, DECOLONIZING FITNESS, <https://decolonizingfitness.com/pages/about-ilya> [<https://perma.cc/3EGQ-RAYA>] (last visited Sept. 23, 2022).

<sup>139</sup> For example, we might imagine a brand with a large queer customer base offering small discounts to customers who completed legal health checkups.

disabilities. Despite the ADA's imperfect reach,<sup>140</sup> it may have reduced the number of employment problems perceived by people to whom it applies, which could occur via multiple mechanisms. For example, the ADA may give people with disabilities a route to address problems with their employer early, making them less likely to worsen. The ADA's protections might also deter employers from creating certain obstacles for employees with disabilities. Here, two caveats are worth considering. First, low employment rates among people with disabilities<sup>141</sup> may make our results look rosier than they are. The employment problems we studied apply disproportionately to people who have jobs.<sup>142</sup> If people with disabilities are disproportionately unemployed, they would not report these problems. Second, we asked whether respondents have a *physical* disability. Physical disabilities are often more readily accommodated than other disabilities, such as those related to mental health. Disabilities that do not fit "just right" under a medical model may be less adequately accommodated,<sup>143</sup> and those disparities were not captured here.

However, respondents with physical disabilities were more likely than people without physical disabilities to experience civil justice problems related to debt. This finding underscores the limits of existing legislation in achieving sweeping equality. Even if people with disabilities are less likely to have civil justice problems related to employment, they may have greater civil justice needs overall and are important to consider in the civil justice landscape. Our results, coupled with the sheer diversity of the disability community and the civil justice needs in that community,<sup>144</sup> suggest that in-depth studies of disabled Americans' access to civil justice (including—to

---

<sup>140</sup> See generally SAMUEL R. BAGENSTOS, *LAW AND THE CONTRADICTIONS OF THE DISABILITY RIGHTS MOVEMENT* (2009).

<sup>141</sup> See, e.g., John J. Donohue III, Michael Ashley Stein, Christopher L. Griffin, Jr. & Sascha Becker, *Assessing Post-ADA Employment: Some Econometric Evidence and Policy Considerations*, 8 J. EMPIRICAL LEGAL STUD. 477 (2011); see also Michelle Maroto & David Pettinicchio, *Twenty-Five Years After the ADA: Situating Disability in America's System of Stratification*, 35 DISABILITY STUD. Q. 1 (2015).

<sup>142</sup> See *supra* Part II.B.

<sup>143</sup> See, e.g., Bradley A. Areheart, *When Disability Isn't "Just Right": The Entrenchment of the Medical Model of Disability and the Goldilocks Dilemma*, 83 IND. L.J. 181, 181 (2008); see also Sagit Mor, *With Access and Justice for All*, 39 CARDOZO L. REV. 611, 622–23 (2017).

<sup>144</sup> Researchers have identified many specific access to justice needs among people with disabilities. See Brent C. Elder & Michael A. Schwartz, *Effective Deaf Access to Justice*, 23 J. DEAF STUD. & DEAF EDUC. 331 (2018) (describing needs within the deaf community); Margaret Camilleri, *Disabled in Rural Victoria: Exploring the Intersection of Victimization, Disability and Rurality on Access to Justice*, 5 INT'L J. RURAL CRIMINOLOGY 88 (2019) (describing needs for people who have disabilities and live in rural areas). Additionally, research points to significant justice needs for people who have disabilities that are mental or cognitive, rather than physical, in nature. See, e.g., Abigail Gray, Suzie Forell & Sophie Clarke, *Cognitive Impairment, Legal Need, and Access to Justice*, Paper 10 in JUST. ISSUES (March 2009), [http://www.lawfoundation.net.au/ljf/site/articleIDs/2EDD47C8AEB2BB36CA25756F0018AFE0/\\$file/JI10\\_Cognitive\\_impairment.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/2EDD47C8AEB2BB36CA25756F0018AFE0/$file/JI10_Cognitive_impairment.pdf) [<https://perma.cc/9QLK-NX3B>].

echo our discussion of LGBTQ+ Americans above—with respect to problems *not* ostensibly related to disability status) is necessary to narrow the justice gap.

### 3. *Rurality*

Rural Americans are 43.6% more likely than non-rural dwellers to experience a family structure problem in the past year ( $p = .005$ ). Previous work also shows that compared to suburbanites, rural Americans have the most subjectively serious justice problems and are less likely to resolve them.<sup>145</sup> Differences in resolution rates are due partly to rural places' dearth of resources, such as legal aid clinics and public transportation. Additionally, cultural norms tied to rurality, such as self-efficacy, privacy, and a sense of dignity,<sup>146</sup> may help explain the disparity. The top-cited reason low-income rural residents do not seek legal help for their justice problems is because they decide they prefer to deal with the problem on their own.<sup>147</sup>

Beyond norms and values, the realities of rural spaces can render resources inaccessible. Imagine a rural resident without a car who must travel 50 miles to reach a legal aid clinic. Without public transportation, the trip may be impossible.<sup>148</sup> Moreover, the intersection of location and other rural characteristics can exacerbate justice problem severity and decrease a person's chances of resolving a problem. Consider the intersection of rurality and poverty. Seventy-five percent of low-income rural households experienced a civil legal problem in the past year and 23% experienced six or more problems.<sup>149</sup> Low-income rural residents receive either no professional legal help, or inadequate professional legal help, for 86% of their civil legal problems.<sup>150</sup>

Because rurality increases people's likelihood of experiencing a civil justice problem and shapes their experience of the problem itself, researchers must further investigate the rural civil justice landscape and develop culturally appropriate resources. As Michele Statz adroitly notes about the rural access to justice crisis: "Not only are A2J 'solutions' intrinsically insufficient in rural areas, but they compound existing stress and are even experienced as humiliating by many low-income rural residents."<sup>151</sup> We echo Statz's call to design justice initiatives that

---

<sup>145</sup> IAALS 2021, *supra* note 3, at 44.

<sup>146</sup> Pruitt, *supra* note 70, at 374 (describing how the "rural value of self-sufficiency" can "deter women from leaving abusive relationships"); Michele Statz, Robert Friday & Jon Bredeson, "They Had Access, but They Didn't Get Justice": *Why Prevailing Access to Justice Initiatives Fail Rural Americans*, 28 GEO. J. POVERTY L. & POL'Y 321 (2021); JENNIFER SHERMAN, *THOSE WHO WORK, THOSE WHO DON'T: POVERTY, MORALITY, AND FAMILY IN RURAL AMERICA* (2009); Holly R. Barcus & Stanley D. Brunn, *Place Elasticity: Exploring a New Conceptualization of Mobility and Place Attachment in Rural America*, 92 GEOGRAFISKA ANNALER: SERIES B, HUM. GEOGRAPHY 281 (2010).

<sup>147</sup> LSC 2017, *supra* note 44, at 48.

<sup>148</sup> Pruitt & Vanegas, *supra* note 70, at 374.

<sup>149</sup> LSC 2017, *supra* note 44, at 48.

<sup>150</sup> *Id.*

<sup>151</sup> See Statz et al., *supra* note 146, at 321.

acknowledge the structural realities of rural spaces, as well as the meanings and values that determine how rural residents define justice.<sup>152</sup> Given the rural legal desert,<sup>153</sup> rural areas may be well-suited for nonlawyer legal services—and given our results, family-related civil justice problems offer an important starting point.

#### 4. Parent of a Child Under Age 18

It is unsurprising that people who are parents of a child under age 18 are more likely to encounter family structure problems; after all, some of the problems we included dealt with child custody. But the effects of being a parent were not limited to this context; parents of children under age 18 were more likely to experience employment and debt problems as well—21.3% and 32.4% more likely than nonparents of minors, respectively ( $p = .027$ ;  $p < .001$ ).

LSC's survey also identified parents of minors as a population that experiences a disproportionately large number of civil justice problems. As our results show, these problems include, but are not limited to, issues related to family structure.<sup>154</sup> A large majority of low-income families that included parents or guardians of minors experienced at least one civil justice problem in the past year (>80%), and 35% of these families experienced *six or more* civil legal problems that year.<sup>155</sup> One explanation may be the well-documented mental and physical health costs of parenting minor children.<sup>156</sup> Justice problems and health problems are mutually constitutive.<sup>157</sup> The fact that parents of minors have increased risks of justice *and* health problems is another reason to prioritize this population's justice needs.

---

<sup>152</sup> One promising model is Alaska Legal Service Corporation's Community Justice Workers program, in which nonlawyers are trained and overseen by lawyers to provide limited legal help in certain categories of justice problems, such as getting domestic violence protective orders, preparing wills, and helping people with Indian Child Welfare Act (ICWA) issues. See *Community Justice Worker Program*, ALASKA LEGAL SERVS. CORP., <https://www.alsc-law.org/community-justice-worker-program/> [https://perma.cc/E24R-S38P] (last visited Feb. 14, 2023).

<sup>153</sup> See generally Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway & Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL'Y REV. 15 (2018).

<sup>154</sup> LSC 2017, *supra* note 44, at 51.

<sup>155</sup> *Id.*

<sup>156</sup> Simon & Caputo, *supra* note 72, at 296 (“[P]arents report higher levels of depression than nonparents in the United States . . . .”); Nomaguchi & Milkie, *supra* note 72, at 202 (“The scholarly discourse elucidating intensive parenting norms indicates that parenting is more stressful today than in prior decades.”).

<sup>157</sup> See Genn, *supra* note 4; Asad L. Asad & Matthew Clair, *Racialized Legal Status as a Social Determinant of Health*, 199 SOC. SCI. & MED. 19 (2018); Pascoe Pleasence, Nigel J. Balmer & Alexy Buck, *The Health Cost of Civil-Law Problems: Further Evidence of Links Between Civil-Law Problems and Morbidity, and the Consequential Use of Health Services*, 5 J. EMPIRICAL LEGAL STUD. 351 (2008).

Research on the COVID-19 pandemic suggests that the negative effects of parenting a child under 18 are exacerbated during large-scale health crises.<sup>158</sup> The loss of full-time childcare is significantly associated with increased risk of unemployment for mothers of minor children.<sup>159</sup> Participation in homeschooling or partial homeschooling during a health crisis—a recurring reality for many families—is also associated with adverse employment outcomes for mothers.<sup>160</sup> Numerous studies demonstrate that the toll of parenting a minor child affects mothers more than fathers,<sup>161</sup> putting mothers at particular risk for justice problems.

Because our results demonstrate that the civil justice needs of parents go beyond family structure, policy interventions need to account for a range of problems. As for other populations whose civil legal problems we have discussed, the challenges that vulnerable populations experience are not always intuitive.

#### *D. Past Trauma and Civil Justice Problems*

Our results point to an enormous civil justice gap related to past trauma experiences. Survivors of either of the two trauma types we included—past arrest and surviving domestic violence and/or sexual assault—experienced a greater likelihood of having an employment problem, a family structure problem, and a debt problem. Even more strikingly, this includes trauma that people experienced *at any point* in their lives, not necessarily recently. Recall, too, that these effects are independent of other effects associated with trauma experiences, such as gender or income level.

In recent years, research about the effects of trauma experiences on adult lives has moved into mainstream awareness—a trend to which the soaring popularity of books like Bessel Van Der Kolk’s *The Body Keeps the Score*<sup>162</sup> and Gabor Maté’s

---

<sup>158</sup> See Stephen W. Patrick, Laura E. Henkhaus, Joseph S. Zickafoose, Kim Lovell, Alese Halvorson, Sarah Loch, Mia Letterie & Matthew M. Davis, *Well-Being of Parents and Children During the COVID-19 Pandemic: A National Survey*, 146 PEDIATRICS e2020016824 (2020); Mark É. Czeisler, Elizabeth A. Rohan, Stephanie Melillo, Jennifer L. Matjasko, Lara DePadilla, Chirag G. Patel, Matthew D. Weaver, Alexandra Drane, Sarah S. Winnay, Emily R. Capodilupo et al., *Mental Health Among Parents of Children Aged <18 Years and Unpaid Caregivers of Adults During the COVID-19 Pandemic—United States, December 2020 and February–March 2021*, 70 MORBIDITY & MORTALITY WEEKLY REP. 879 (2021); see generally Samantha M. Brown, Jenalee R. Doom, Stephanie Lechuga-Peña, Sarah Enos Watamura & Tiffany Koppels, *Stress and Parenting During the Global COVID-19 Pandemic*, 110 CHILD ABUSE & NEGLECT 104699 (2020).

<sup>159</sup> See generally Richard J. Petts, Daniel L. Carlson & Joanna R. Pepin, *A Gendered Pandemic: Childcare, Homeschooling, and Parents’ Employment During COVID-19*, 28 GENDER WORK & ORG. 515 (2021).

<sup>160</sup> *Id.*

<sup>161</sup> Jill E. Yavorsky, Yue Qian & Amanda C. Sargent, *The Gendered Pandemic: The Implications of COVID-19 for Work and Family*, 15 SOCIO. COMPASS 1, 1–9 (2021); see generally Petts et al., *supra* note 157.

<sup>162</sup> VAN DER KOLK, *supra* note 73.



*When the Body Says No: Exploring the Stress-Disease Connection*,<sup>163</sup> are testament.<sup>164</sup> Trauma's pervasive effects on people's social and psychological lives<sup>165</sup> have long been of interest to psychologists but have rarely made it into the access to justice conversation—with the notable exception of justice needs and interventions related to the traumatic experiences themselves.

The idea that being sexually assaulted at age 21 might affect a person's chances of being in debt at age 37, or that having been arrested for a misdemeanor at 42 might affect a person's chances of facing an employment problem years later, is simply not part of the access to justice conversation yet—and it needs to be. Our results reveal a trauma justice gap and point to a dire need for civil justice interventions to help people who, regardless of other identity characteristics, have ever experienced trauma. Note, too, that we only asked people about a few types of trauma. Although arrest, sexual assault, and domestic violence are acute traumas, people experience a broad range of trauma types.<sup>166</sup> Future research on the trauma justice gap should investigate more forms, as well as the relationship between recency of trauma and experience of justiciable problems.

### *I. Arrest*

For all three types of justice problems we examined, people who had been arrested at any point in the past were more likely than non-arrestees to face a civil justice problem in the last year. Past arrestees were 48.8% more likely to experience an employment problem, 166% more likely to experience a family structure problem, and 118.26% more likely to experience a debt problem than people who were never arrested.

Approximately one in three Americans has been arrested—about as many as have four-year college degrees.<sup>167</sup> Of those, many are never convicted of a crime. Yet even without the experiences of prosecution, conviction, or incarceration, a

---

<sup>163</sup> Gabor Maté, *WHEN THE BODY SAYS NO: EXPLORING THE STRESS-DISEASE CONNECTION* (2003).

<sup>164</sup> For example, six years after its publication, *The Body Keeps the Score* was featured on a popular episode New York Times podcast, The Ezra Klein Show, and soared to the top ten on the Amazon bestseller list. See The Ezra Klein Show, *This Conversation Will Change How You Think About Trauma*, N.Y. TIMES (Aug. 24, 2021), <https://www.nytimes.com/2021/08/24/opinion/ezra-klein-podcast-van-der-kolk.html> [<https://perma.cc/WAW6-KJ99>].

<sup>165</sup> Monnat & Chandler, *supra* note 73; Testa et al., *supra* note 73.

<sup>166</sup> See generally Ibrahim Aref Kira, *Taxonomy of Trauma and Trauma Assessment*, 7 TRAUMATOLOGY 73 (2001); Ananda B. Amstadter & Laura L. Vernon, *Emotional Reactions During and After Trauma: A Comparison of Trauma Types*, 16 J. AGGRESSION, MALTREATMENT & TRAUMA 391 (2008); Adriano Schimmenti, *The Trauma Factor: Examining the Relationships Among Different Types of Trauma, Dissociation, and Psychopathology*, 19 J. TRAUMA & DISSOCIATION 552 (2018).

<sup>167</sup> See Matthew Friedman, *Just Facts: As Many Americans Have Criminal Records as Have College Diplomas*, BRENNAN CTR. FOR JUST. (NOV. 17, 2015), <https://www.brennancenter.org/our-work/analysis-opinion/just-facts-many-americans-have-criminal-records-college-diplomas> [<https://perma.cc/QCN7-MHUA>].

growing literature notes that police interactions are associated with negative mental health outcomes. Sociologists Naomi Sugie and Kristin Turney found that arrest accounted for nearly half the association between incarceration and poor mental health.<sup>168</sup> Arrest can involve searches of one's clothing, body, or property, as well as rough physical contact, verbal abuse, a lack of control, and a loss of dignity, all of which may be traumatic.<sup>169</sup>

Our study used a binary indicator of whether a person had ever been arrested, but if the trauma of arrest is associated with civil justice problems, our approach likely underestimates the importance of arrest since the trauma may be additive.<sup>170</sup> And although our findings suggest that past arrest was associated with civil justice problems independent of race, police contact cannot be divorced from structural racism; acts of aggression and violence from police against people of color are “not only examples of interpersonal trauma but also the trauma of racism.”<sup>171</sup>

Qualitative work is better suited to explain the relationship between arrest and civil justice problems, but research points to two major possibilities. One is the association between trauma and mental health problems. If arrest is traumatic and trauma causes mental health problems, mental health problems may give rise to life conditions that make civil justice problems likely. The relationship between mental health and civil justice problems is important for future researchers to consider,

---

<sup>168</sup> Sugie & Turney, *supra* note 74.

<sup>169</sup> Scholars have framed police contact as initial stressors of trauma. Abigail A. Sewell & Kevin A. Jefferson, *Collateral Damage: The Health Effects of Invasive Police Encounters in New York City*, 93 J. URB. HEALTH S42, S43 (2016); Abigail A. Sewell, Kevin A. Jefferson & Hedwig Lee, *Living Under Surveillance: Gender, Psychological Distress, and Stop-Question-And-Frisk Policing in New York City*, 159 SOC. SCI. & MED. 1, 9–10 (2016); see also AARON STAGOFF-BELFORD, DANIEL BODAH & DANIELA GILBERT, THE SOCIAL COSTS OF POLICING (Nov. 2022), <https://www.vera.org/downloads/publications/the-social-costs-of-policing.pdf> [<https://perma.cc/29G3-9JVV>]. Ethnographic researchers have found that in urban communities and communities of color, traumatic experiences with police often begin early in life. See, e.g., VICTOR M. RIOS, PUNISHED: POLICING THE LIVES OF BLACK AND LATINO BOYS 8 (John Hagan ed., 2011); CARLA SHEDD, UNEQUAL CITY: RACE, SCHOOLS, AND PERCEPTIONS OF INJUSTICE 4 (2015); see also Rod K. Brunson & Ronald Weitzer, *Police Relations with Black and White Youths in Different Urban Neighborhoods*, 44 URB. AFF. REV. 858, 864 (2009) (finding that police treatment of youth is more problematic in Black and racially diverse neighborhoods than in White neighborhoods).

<sup>170</sup> One study found that young men in New York City were more likely to report trauma and anxiety symptoms the more they were subjected to police contact, especially intrusive contact. Amanda Geller, Jeffrey Fagan, Tom Tyler & Bruce G. Link, *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. PUB. HEALTH 2321, 2324 (2014). Scholars have also argued that police contact should be included as a measure of Adverse Childhood Experiences (ACEs)—defined as “potentially traumatic events that occur in childhood or environmental circumstances that can undermine a child’s sense of safety, stability, and bonding.” Amanda Geller, *Youth–Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014–2017*, 111 AM. J. PUB. HEALTH 1300, 1300 (2021).

<sup>171</sup> Thema Bryant-Davis, Tyonna Adams, Adriana Alejandre & Anthea A. Gray, *The Trauma Lens of Police Violence Against Racial and Ethnic Minorities*, 73 J. SOC. ISSUES 852, 852 (2017).

particularly given the inverse relationship between mental health and knowledge of legal rights<sup>172</sup> and civil justice problems' potential to exacerbate existing mental health problems, such as depression.<sup>173</sup> A second major explanation for the association is that, as Sarah Lageson's work shows in impressive detail, arrest can lead to difficulty securing employment, even if the arrest never results in a criminal conviction.<sup>174</sup> Lageson writes: "[N]early any interaction with the legal system becomes a permanent data point. . . . Although criminal records were once viewed simply as an administrative record, their social value has transformed over time into an object that sorts, classifies, marks, and punishes people in areas of life beyond the criminal justice system . . . ."<sup>175</sup> The hidden costs of a record, even an arrest record, may affect people in nonobvious ways.

## 2. *Domestic Violence and Sexual Assault*

Domestic violence and sexual assault are justice problems in and of themselves.<sup>176</sup> Our results align with findings that in addition, domestic violence and sexual assault are associated with other problems. We found that survivors of domestic violence and/or sexual assault are 53.9% more likely to experience an employment problem, 89.5% more likely to experience a family structure problem, and 42.5% more likely to experience a debt problem. As with arrest, we operationalized domestic violence and sexual assault survival as a binary variable. The cumulative effects of multiple experiences likely result in higher disparities.

---

<sup>172</sup> Catrina Denvir, Nigel J. Balmer & Alexy Buck, *Informed Citizens? Knowledge of Rights and the Resolution of Civil Justice Problems*, 41 J. SOC. POL'Y 591, 599 (2012).

<sup>173</sup> Pascoe Pleasence, Nigel J. Balmer, Alexy Buck, Marisol Smith & Ash Patel, *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems*, in TRANSFORMING LIVES: LAW AND SOCIAL PROCESS 67, 67 (Pascoe Pleasence, Alexy Buck & Nigel J. Balmer eds., 2007).

<sup>174</sup> See, e.g., Sarah E. Lageson, Elizabeth Webster & Juan R. Sandoval, *Digitizing and Disclosing Personal Data: The Proliferation of State Criminal Records on the Internet*, 46 L. & SOC. INQUIRY 635, 639–40 (2021); see also SARAH ESTHER LAGESON, *DIGITAL PUNISHMENT: PRIVACY, STIGMA, AND THE HARMS OF DATA-DRIVEN CRIMINAL JUSTICE* 6 (2020).

<sup>175</sup> Sarah Esther Lageson, *Criminal Record Stigma and Surveillance in the Digital Age*, 5 ANN. REV. CRIMINOLOGY 67, 68 (2022). And, of course, more civil justice problems can result from interaction with the criminal justice system, but which are not themselves criminal charges, even though the sociolegal literature typically treats these two categories as discrete. See, e.g., ALEXES HARRIS, *A POUND OF FLESH: MONETARY SANCTIONS AS A PUNISHMENT FOR THE POOR* 1–2 (2016) (explaining that monetary sanctions pose great legal, economic, and social harm for poor individuals who have contact with the criminal justice system); see also ALEXANDRA NATAPOFF, *PUNISHMENT WITHOUT CRIME: HOW OUR MASSIVE MISDEMEANOR SYSTEM TRAPS THE INNOCENT AND MAKES AMERICA MORE UNEQUAL* 19 (2018); Pamela S. Karlan, *The Paradoxical Structure of Constitutional Litigation*, 75 FORDHAM L. REV. 1913, 1916 (2007).

<sup>176</sup> IAALS 2021, *supra* note 3, at 41.

Americans cite domestic violence and abuse as the most burdensome legal problems to resolve in terms of perceived seriousness, average time and money spent to resolve them, and rate of resolution.<sup>177</sup> In addition to the problems' gravity and duration, people also report more negative consequences from domestic violence than from any other civil justice problem. These consequences include the onset or exacerbation of mental health problems, negative emotions, and financial loss.<sup>178</sup> Like arrest, domestic violence is a form of trauma to which already vulnerable populations are even more vulnerable. People who report family incomes at or below the federal poverty line are four times more likely to experience domestic violence than people reporting family incomes at or above 400% of the federal poverty line.<sup>179</sup>

These findings are both alarming and unsurprising. Research documents the negative consequences, including civil justice problems, that are disproportionately likely to affect survivors of domestic violence or sexual assault.<sup>180</sup> In fact, 97% of households that contained at least one recent survivor of domestic violence and/or sexual assault had one or more civil legal problems in the past year (in addition to the domestic violence and/or sexual assault itself). Over two-thirds of these households experienced six or more civil legal problems the previous year.<sup>181</sup>

How might domestic violence and/or sexual assault proliferate civil justice problems? Consider a woman fleeing her home from domestic violence.<sup>182</sup> In escaping her former partner, she may face financial problems related to housing, food, and employment due to a partial or complete loss of income. She may be subject to a custody battle against her abuser, which is another common justice problem following domestic violence.<sup>183</sup> Many women also struggle to gain access to culturally sensitive and appropriate mental health care,<sup>184</sup> which is important since

---

<sup>177</sup> *Id.* at 59.

<sup>178</sup> *Id.* at 8, 73.

<sup>179</sup> LSC 2017, *supra* note 44, at 19.

<sup>180</sup> *Id.* at 7.

<sup>181</sup> *Id.*

<sup>182</sup> People of all genders face domestic violence and sexual assault. IAALS 2021, *supra* note 3, at 29; BLACK ET AL., *supra* note 77. We use a woman as our example here, because most domestic violence survivors are women, SMITH ET AL., *supra* note 77, and because most sexual assault survivors are women, BLACK ET AL., *supra* note 77.

<sup>183</sup> See Mary Becker, *Access to Justice for Battered Women*, 12 WASH. U. J.L. & POL'Y 63, 64 (2003); Lyndal Khaw, Autumn M. Bermea, Jennifer L. Hardesty, Daniel Saunders & Angela M. Whittaker, "The System Had Choked Me Too": *Abused Mothers' Perceptions of the Custody Determination Process that Resulted in Negative Custody Outcomes*, 36 J. INTERPERSONAL VIOLENCE 4310, 4312 (2021).

<sup>184</sup> See Michele Statz, Katie R. Billings & Jordan Wolf, *Rurality as Concordance: Mental Health Service Delivery for Rural Survivors of Intimate Partner Violence*, 65 SOCIO. PERSPS. 485, 492 (2021); see generally Susan Lagdon, Cherie Armour & Maurice Stringer, *Adult Experience of Mental Health Outcomes as a Result of Intimate Partner Violence Victimization: A Systematic Review*, 5 EUR. J. PSYCHOTRAUMATOLOGY, 1, 6 (2014) (noting various studies suggesting women suffer more long-term mental health effects from intimate partner violence).

75% of women who survive domestic violence report that their mental health was impacted to a “large” or “very large” extent.<sup>185</sup>

The justice consequences of trauma are long-lived. Adverse childhood experiences, for example, are strongly associated with employment issues in adulthood,<sup>186</sup> adult financial well-being,<sup>187</sup> and criminal justice contact.<sup>188</sup> As is true for undergoing arrest, domestic violence and sexual assault are traumatic experiences which often affect a person’s future civil justice problems in ways that extend well beyond the timeframe of the trauma-causing incident.

Given the interconnectedness of traumatic violence and justice problems, some researchers and policymakers have called for holistic solutions.<sup>189</sup> Interventions should recognize and respond to the likelihood that survivors of domestic violence and/or sexual assault face numerous civil justice problems simultaneously. We also echo calls for reforms to provide survivors meaningful access to *justice*, as opposed to access to legal *procedures*. Formal legal processes often offer little “justice.”<sup>190</sup> They can retraumatize, demean, and deplete survivors’ economic and emotional resources.<sup>191</sup> Some survivors report that formal legal processes were simply an opportunity for their abusers to continue controlling them.<sup>192</sup> To respond to survivors’ unique justice needs, future researchers must measure domestic violence and sexual assault alongside other identity characteristics to shed more light on the link between traumatic experiences and risk for subsequent civil justice problems. New interventions should also focus on which problems tend to occur concurrently,

---

<sup>185</sup> IAALS 2021, *supra* note 3, at 76.

<sup>186</sup> See James Topitzes, David J. Pate, Nathan D. Berman & Christopher Medina-Kirchner, *Adverse Childhood Experiences, Health, and Employment: A Study of Men Seeking Job Services*, 61 CHILD ABUSE & NEGLECT 23, 24–26 (2016); Yong Liu, Janet B. Croft, Daniel P. Chapman, Geraldine S. Perry, Kurt J. Greenlund, Guixiang Zhao & Valerie J. Edwards, *Relationship Between Adverse Childhood Experiences and Unemployment Among Adults from Five US States*, 48 SOC. PSYCHIATRY & PSYCHIATRIC EPIDEMIOLOGY 357, 364 (2013).

<sup>187</sup> Cynthia L. Harter & John F. R. Harter, *The Link Between Adverse Childhood Experiences and Financial Security in Adulthood*, J. FAM. & ECON. ISSUES 1 (2021).

<sup>188</sup> Testa et al., *supra* note 73.

<sup>189</sup> Eugene M. Hyman & Liberty Aldrich, *Rethinking Access to Justice: The Need for a Holistic Response to Victims of Domestic Violence*, 33 WOMEN’S RTS. L. REP. 449, 462 (2012).

<sup>190</sup> *Id.* at 454–55; see also, e.g., Jane K. Stoeber, *Access to Safety and Justice: Service of Process in Domestic Violence Cases*, 94 WASH. L. REV. 333, 400 (2019); Rebecca Aviel, *Family Law and the New Access to Justice*, 86 FORDHAM L. REV. 2279, 2294–95 (2018); *Access to Justice in Domestic Violence and Sexual Assault Cases*, CTR. FOR CT. INNOVATION, <https://www.courtinnovation.org/access-justice-domestic-violence> [<https://perma.cc/C76E-PLKP>] (last visited Sept. 23, 2022); Becker, *supra* note 181, at 63.

<sup>191</sup> Deborah Epstein & Lisa A. Goodman, *Discounting Women: Doubting Domestic Violence Survivors’ Credibility and Dismissing Their Experiences*, 167 U. PA. L. REV. 399, 439–40 (2019).

<sup>192</sup> Heather Douglas, *Legal Systems Abuse and Coercive Control*, 18 CRIMINOLOGY & CRIM. JUST. 84, 96 (2018).

or shortly after, sexual assaults and domestic violence incidents to account for the myriad of civil justice needs in survivors' lives.<sup>193</sup>

#### CONCLUSION

Understanding the access to justice landscape in the United States demands deliberate intersectionality.<sup>194</sup> Race and income pave part of a person's civil justice path, but empirical designs that account for a greater diversity of identities and experiences can provide a sharper picture of the civil justice landscape. It is striking that some of the factors most strongly associated with justiciable problems are almost never considered in prior access to justice research. A detailed understanding of which people face which justiciable problems is important because it can help design and target justice interventions<sup>195</sup> to help people with the direst needs.<sup>196</sup>

---

<sup>193</sup> For some recommendations and examples of such holistic approaches, see, e.g., Ernest Adu-Gyamfi, *Challenges Undermining Domestic Violence Victims' Access to Justice in Mampong Municipality of Ghana*, 27 J. L. POL'Y & GLOBALIZATION 75 (2014) (analyzing, via a multifaceted approach, the barriers to accessing justice for domestic violence victims in Ghana); Nancy K. D. Lemon, *Access to Justice: Can Domestic Violence Courts Better Address the Needs of Non-English Speaking Victims of Domestic Violence?*, 21 BERKELEY J. GENDER, L. & JUST. 38 (2006) (considering how a lack of interpreters affects domestic violence victims' access to courts); Jennifer Koshan, Janet Mosher & Wanda Wieggers, *COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence*, 57 OSGOODE HALL L.J. 739 (2020) (examining how the COVID-19 pandemic negatively affected female domestic violence survivors' access to justice); PATRICIA M. BARKASKAS & SARAH HUNT, ACCESS TO JUSTICE FOR INDIGENOUS ADULT VICTIMS OF SEXUAL ASSAULT, DEP'T OF JUST. CANADA 40–49 (2017), [https://publications.gc.ca/collections/collection\\_2018/jus/J2-484-2017-eng.pdf](https://publications.gc.ca/collections/collection_2018/jus/J2-484-2017-eng.pdf) [<https://perma.cc/X8WP-SB9T>] (looking at barriers to accessing justice for Canadian Indigenous populations experiencing sexual assault through a trauma-informed framework).

<sup>194</sup> Although it can be difficult to figure out what an “intersectional perspective” means for policy, legal scholarship has a decades-long history of doing precisely this. Kimberle Crenshaw's pivotal work identified that it was discrimination at the *intersection* of race and gender that prevented Black women from accessing employment justice. Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991) (considering how the violence women experience often differs based on race and other factors); Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139 (1989) (discussing how race and gender are not mutually exclusive categories for analysis).

<sup>195</sup> For some examples of how this has been done in medical settings, as well as a discussion of how technology might be best leveraged to help particular groups access civil legal assistance, see Tanina Rostain, *Techno-Optimism & Access to the Legal System*, 148 DÆDALUS 93, 95 (2019).

<sup>196</sup> A modest body of access to justice work, particularly work on rurality, has begun looking at populations who share combinations of characteristics. Anne Groggel finds that

To fill the broad span of the justice gap in the United States, we need a better understanding of who needs what. The instant study begins to create this intersectional understanding. It also underscores the complexity of America's civil justice needs.

But as we develop a better understanding of the trees, we should not take our eyes from the forest. Colleen F. Shanahan and Anna E. Carpenter observe that access to justice reforms can “mitigate but do not solve the symptoms of the larger underlying problem: state civil courts are struggling because they have been stuck with legal cases that arise from the legislative and executive branches’ failure to provide a social safety net in the face of rising inequality.”<sup>197</sup> They are correct. And it is not just state civil courts that languish without an adequate safety net for Americans; it is everyday Americans. It is no coincidence that the same populations that are materially disadvantaged and socially marginalized are the same people on whom the access to justice crisis takes the biggest tolls.

Civil justice solutions are also difficult because, as Emily Taylor Poppe points out, “[t]o an extent not often recognized, access to justice is an orphan issue, a social problem for which no institution bears responsibility.”<sup>198</sup> If civil justice problems cannot be solved by law and lawyers alone—as it is increasingly recognized they cannot be—who will solve them? In the United States, no specific social institution is tasked with the job, so the approach has been piecemeal—a state-by-state or county-by-county combination of state court initiatives, legal self-help programs, experiments with deregulation and nonlawyer provision of legal services, and programs such as medical-legal partnerships. All of these solutions have promise, and none can do it alone.<sup>199</sup>

---

rural women are more likely to experience intimate partner violence and/or sexual assault *and* are less likely to be granted a civil protection order, which is one of the most common legal solutions in response to intimate partner violence. Anne Groggel, *The Role of Place and Sociodemographic Characteristics on the Issuance of Temporary Protection Orders*, 55 L. & SOC'Y REV. 38, 50, 57 (2021); *see also* Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 467–80 (2014) (commenting on the shortage of lawyers in rural areas across the United States and considering potential solutions); Maybell Romero, *Viewing Access to Justice for Rural Mainers of Color Through a Prosecution Lens*, 71 ME. L. REV. 227, 234–43 (2019) (considering the relationship between rural Mainers of color and advocating for prosecutors to reconsider their perceptions of justice); Maybell Romero, *Rural Spaces, Communities of Color, and the Progressive Prosecutor*, 110 J. CRIM. L. & CRIMINOLOGY 803, 811–22 (2020) (discussing the role and nature of progressive prosecutors and noting that prosecution reforms are lacking in rural areas).

<sup>197</sup> Colleen F. Shanahan & Anna E. Carpenter, *Simplified Courts Can't Solve Inequality*, 148 DÆDALUS 128, 128 (2019).

<sup>198</sup> Emily S. Taylor Poppe, *Institutional Design for Access to Justice*, 11 U.C. IRVINE L. REV. 781, 784 (2021).

<sup>199</sup> These innovations are interrelated. For example, deregulation and reregulation have shaped the role of state civil court judges. *See* Jessica Steinberg, Anna E. Carpenter, Colleen F. Shanahan & Alyx Mark, *Judges and the Deregulation of the Lawyers' Monopoly*, 89

Sameer Ashar and Annie Lai observe that the access to justice crisis reflects an unequal distribution of access to power.<sup>200</sup> Power comes in many forms. Deregulation of select legal services creates power by harnessing market forces<sup>201</sup> to provide simple services for which the current workforce of lawyers lacks the capacity. Creation of a robust, well-funded federal institution to provide access to justice leadership is another approach, and it remains to be seen whether the U.S. Office for Access to Justice<sup>202</sup> will serve this role.<sup>203</sup> Other forms of power abound—improved legal design,<sup>204</sup> problem-solving courts,<sup>205</sup> citizens’ advice resources,<sup>206</sup>

---

FORDHAM L. REV. 1315, 1315–18, 1336–49 (2021). For a discussion about how innovations in legal tech will shape civil procedure, see David Freeman Engstrom & Jonah B. Gelbach, *Legal Tech, Civil Procedure, and the Future of Adversarialism*, 169 U. PA. L. REV. 1001, 1041–86 (2021).

<sup>200</sup> See Sameer Ashar & Annie Lai, *Access to Power*, 148 DÆDALUS 82, 83–85 (2019).

<sup>201</sup> For a discussion of expanding access to justice through a marketing perspective, see Elizabeth Chambliss, *Marketing Legal Assistance*, 148 DÆDALUS 98, 98–103 (2019).

<sup>202</sup> Press Release No. 21-1067, Off. Pub. Aff., U.S. Dep’t Just., Attorney General Merrick B. Garland Restores the Office for Access to Justice (Nov. 4, 2021), <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-restores-office-access-justice> [<https://perma.cc/L8C7-P5KQ>] (detailing the first step in the Attorney General Garland’s phased strategic plan to restore and expand the emphasis on access to justice within the Department of Justice and throughout the federal government).

<sup>203</sup> *Office for Access to Justice*, U.S. DEP’T OF JUST., <https://www.justice.gov/atj> [<https://perma.cc/55AL-WNZ9>] (last visited Oct. 30, 2022) (discussing the mission of the Office for Access to Justice). The office’s current website suggests a broad-brush focus on people who cannot afford lawyers. *Id.* (“ATJ staff works . . . to improve the justice delivery systems that serve people who are unable to afford lawyers.”). Worryingly, this description seems to ignore Sandefur’s central insight that affordability of lawyers is not the biggest barrier to Americans’ resolution of their civil justice problems.

<sup>204</sup> See, e.g., Margaret Hagan, *Law by Design*, <https://lawbydesign.co/> [<https://perma.cc/EH4W-48ZG>] (last visited Sept. 25, 2022).

<sup>205</sup> Jessica K. Steinberg, *Informal, Inquisitorial, and Accurate: An Empirical Look at a Problem-Solving Housing Court*, 42 L. & SOC. INQUIRY 1058, 1087 (2017) (addressing the “unique” nature of the District of Columbia’s Housing Conditions Court and the benefits it has experienced as an “experimental forum in which traditional adversarial norms do not prevail.”).

<sup>206</sup> For instance, the Citizens’ Advice Bureau is used in the United Kingdom, which has looser restrictions on the provision of legal advice than in the U.S. *Welcome to Citizens Advice*, CITIZENS ADVICE, <https://www.citizensadvice.org.uk/> [<https://perma.cc/A2SM-7QYR>] (last visited Sep. 25, 2022). Their website has general resources, including but not limited to legal resources, and is presented in a user-friendly way that does not assume that people understand their problems are legal problems. *Id.* For example, the common topics currently included on the landing page include, “Get help with bills” and “Check what benefits you can get.” *Id.*



lay advocates,<sup>207</sup> and researchers<sup>208</sup> all have the potential to provoke a cultural shift. Across these approaches, understanding intersectional justice needs is crucial because understanding the landscape in detail will enable interventions that are designed for, and targeted to, the people who need them most.

#### APPENDIX

The bars in Figure 1A represent the average predicted probability of experiencing each given justice problem in the previous year, and the error bars represent the 95% confidence intervals for the predicted probability values. The confidence intervals represent the range within which each predicted probability would fall 95% of the time in repeated samples. Thus, when the confidence intervals do not overlap, the predicted probabilities are statistically significant at the .05 alpha level. Note, however, that even when confidence intervals do overlap slightly,<sup>209</sup> differences between the two bars may still be statistically significantly different.<sup>210</sup>

Figure 1A shows predicted probabilities for the covariates we added in the second models of Table 2: queerness, physical disability, rurality, and parenting a child under 18 years old. A respondent who identifies as LGBTQ+ experiences a 3.0 percentage point increase in their likelihood of experiencing a family structure problem in the prior year (9.91% to 12.91%) and a 4.93 percentage point increase in their likelihood of experiencing a debt problem (29.60% to 34.53%) compared to their straight, cisgender counterparts. Respondents with a physical disability see a 5.18 percentage point reduction in their simulated probability of experiencing an employment problem compared to those without a physical disability (28.84% to 23.66%). Conversely, respondents with a physical disability see a 6.28 percentage point increase in their likelihood of experiencing a debt problem compared to those without physical disabilities (29.17% to 35.45%). A respondent who lives in a rural location has a 12.47% chance of experiencing an employment problem while a similarly situated respondent who does not live in a rural location has a 9.43%

---

<sup>207</sup> Alice Woolley & Trevor Farrow, *Addressing Access to Justice Through New Legal Service Providers: Opportunities and Challenges*, 3 TEX. A&M L. REV. 549, 551 (2016); Milan Markovic, *Juking Access to Justice to Deregulate the Legal Market*, 29 GEO. J. LEGAL ETHICS 63, 75–80 (2016); Rebecca L. Sandefur & Emily Denne, *Access to Justice and Legal Services Regulatory Reform*, 18 ANN. REV. L. & SOC. SCI. 27 (2022).

<sup>208</sup> Research, too, is a form of power. Gillian Hadfeld and Jaime Heine have observed that in contrast to the National Institute of Health, public health departments, epidemiologists, and other well-funded sources of research to understand the medical health of communities, “systematic efforts to collect data about the health of legal systems for ordinary individuals are few and far between.” Gillian K. Hadfield & Jaime Heine, *Life in the Law-Thick World: The Legal Resources for Ordinary Americans*, in BEYOND ELITE LAW: ACCESS TO CIVIL JUSTICE IN AMERICA 21, 22 (Samuel Estreicher & Joy Radice eds., 2016).

<sup>209</sup> For an explanation of interpreting overlapping confidence intervals and their significance, see Lincoln E. Moses, *Graphical Methods in Statistical Analysis*, 8 ANN. REV. PUB. HEALTH 309, 322 (1987).

<sup>210</sup> Here, we review only statistically significant differences in the text when describing each figure.

chance of experiencing an employment problem—a 3.04 percentage point increase for rural residents. Lastly, a respondent parenting a child under the age of 18 is more likely than a resident who is not parenting a minor to experience all three access to justice problem types compared to a respondent without a child under 18 years old. A respondent with a child under 18 has a 3.45 percentage point increase in their likelihood of experiencing an employment problem (26.91% to 30.36%), a 10.62 percentage point increase in their likelihood of experiencing a family structure problem (6.74% to 17.36%), and a 5.56 percentage point increase in their likelihood of experiencing a debt problem (28.57% to 34.13%) compared to respondents without a child under 18.

*Figure 1A. Predicted Probabilities for Each Access to Justice Problem Type in the Previous Year by Demographic Characteristics with 95% Confidence Intervals*

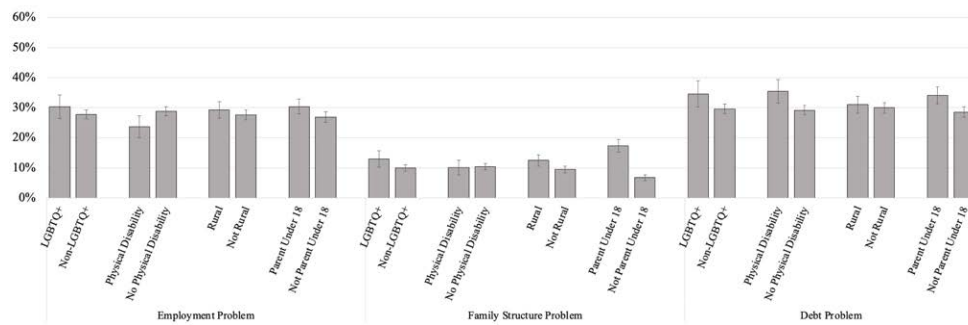


Figure 2A includes simulated probabilities for the two trauma variables from the third models in Table 2.

*Figure 2A. Predicted Probabilities for Each Access to Justice Problem Type in the Previous Year by Demographic Characteristics with 95% Confidence Intervals*

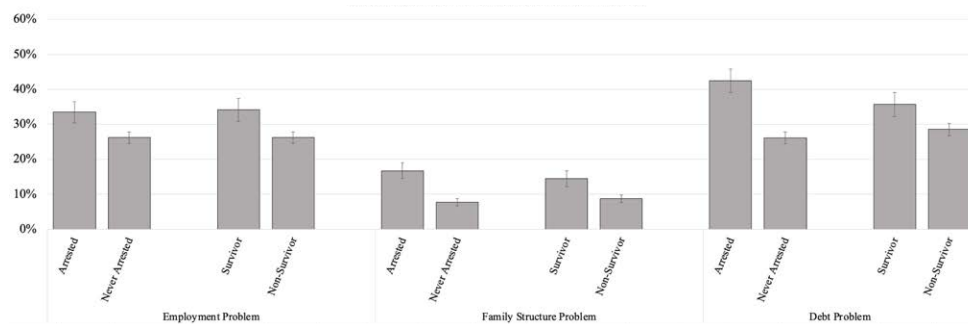


Figure 2A shows that respondents who have experienced a trauma—arrest or surviving domestic violence and/or sexual assault—are more likely than respondents who have not experienced these events to report all three access to justice problem types in the previous year. A respondent who has previously been arrested has a

33.44% chance of experiencing an employment problem in the previous 12 months while a similarly situated respondent who has not been arrested has a 26.22% chance of experiencing an employment problem. In other words, respondents who have endured arrest see a 7.22 percentage point increase in their simulated probability of experiencing an employment problem. This trend holds for family structure and debt problems as well. Respondents who have been arrested are 9.04 percentage points more likely than those who have not been arrested to experience a family structure problem (7.68% to 16.72%) and 16.39 percentage points more likely to experience a debt problem (26.10% to 42.49%) compared to respondents who have not been arrested.

Survivors of domestic violence and/or sexual assault are similarly more likely than non-survivors to experience all three categories of civil justice problems. Respondents who have survived domestic violence and/or sexual assault see a 7.91 percentage point increase in their simulated probability for an employment problem compared to non-survivors (26.22% to 34.13%). Survivors of domestic violence and/or sexual assault experience a 5.68 percentage point increase in their simulated probability of experiencing a family structure problem (8.75% to 14.43%) and a 7.14 percentage point increase in their simulated probability of experiencing a debt problem (28.51% to 35.65%) compared to non-survivors. Overall, experiencing trauma increases the likelihood of experiencing all civil justice problem types.