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# Bridging the Justice Gap: Exploring Approaches for Improving Indigent Access to Civil Counsel

Kelsey Atkinson  
*Pomona College*

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**Bridging the Justice Gap:**  
Exploring Approaches for Improving Indigent Access to Civil Counsel

By: Kelsey Atkinson  
Spring 2014

*Presented to:*  
Professor Rick Worthington  
Professor Shlomi Sher

A senior thesis in partial fulfillment of a Bachelor of Arts Degree in  
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*“The gap between the promise of justice and the practices that the impoverished, uneducated, and inarticulate have endured is what cannot be tolerated any longer.”*

*–Edward V. Sparer*



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ABSTRACT:

The United States is among one of the only democratic industrialized nations in the world that does not provide guaranteed access to civil representation in cases involving basic human need. This leaves indigent litigants who are at risk of losing their homes or their children left to seek counsel through insufficient pro-bono programs or limited scope legal self-help centers. This thesis provides a history of the struggle for the right to civil counsel, known as Civil Gideon, and explores a variety of proposed solutions to bridge the justice gap for indigent litigants. Despite considerable support for Civil Gideon among scholars and the legal community, the public is unaware of the justice gap- about 80% of Americans assume the right to civil counsel already exists. This thesis conducted two studies to understand possible reasons for this gap between public knowledge and reality and to identify the possibility of manipulating public knowledge through exposure to injustices. The findings from these studies are used to inform a network approach to shape public support for Civil Gideon so that the US court system can truly represent opportunity and equality for all citizens.



## Introduction

The United States is one of the last industrialized democratic nations in the world to have no guaranteed right to civil counsel in its legal code (Bindra & Ben-Cohen, 2003, p.33; ABA Resolution, 2006, p.4). Despite a growing body of empirical evidence showing the negative impact deprivation of counsel has in civil cases, there has been little progress in addressing the growing “justice gap.” The legal community has long recognized the “justice gap” in the United States and has advocated for a variety of solutions to improve access to justice for indigent litigants.

The most comprehensive approach, and arguably the most controversial, advocates providing free legal representation to indigent litigants in civil cases of basic human need, a concept known as Civil Gideon. Despite strong support from the American Bar Association and the greater legal community, however, there is little public understanding of the issue. One survey conducted in 2009 found that 79% of Americans believe that a civil right to counsel already existed for indigent litigants (Bindra & Ben-Cohen, 2003, p.3).

In a statement to the *Los Angeles Times*, former California State Assemblyman and current Attorney General of Los Angeles, Mike Feuer said, “How ironic that you can be arrested for stealing a small amount of food... and you’re entitled to counsel. But if your house is on the line, your child is on the line, or you’re being abused in a domestic relationship, you don’t have the same right to counsel.” (Williams, 2009). Additionally, State Bar of California president Jeff Bleich notes that when litigants cannot afford a lawyer they often settle a case when they shouldn’t, simply because they can’t afford the right lawyer. He compares the severity of this issue to the “intolerable injustice of Americans having to choose an unqualified doctor... or perform surgery on themselves because they could not get proper medical care.” (2008).

Attention for the right to civil counsel was revived within the legal community surrounding the 40<sup>th</sup> anniversary of Criminal Gideon in 2003 with an increased number of law journal articles and resolutions published dedicated to the subject (ABA Resolution, 2006). Since then American Bar Association President, Michael Greco, stated, “a defined right to counsel in civil cases is an idea whose time has come.” (Engler, 2006, p.700). In 2009, Assemblyman Feuer’s bill known as the Shriver Project (CA AB 590), passed the California State Assembly and funded the first Civil Gideon pilot program in the United States. The pilot has brought additional attention to the subject of Civil Gideon as advocates begin to collect data about improving case outcomes that could support the growth of Civil Gideon on a larger scale throughout the United States.

### Project Overview

No movement for substantial social change can take place without efforts stemming from a diverse range of actors. While Civil Gideon has significant support within the legal community, progress towards bridging the justice gap has been cumbersome. The studies conducted as a part of this thesis will collect data regarding normative and descriptive beliefs about the right to civil counsel from the general population of the United States in order to better understand the absence of public knowledge about the justice gap and determine possible methods of appealing to the human sense of justice to increase support for Civil Gideon.

Understanding perceptions of equality in the legal system requires understanding of the psychological underpinnings of justice that begins with the belief in a just world hypothesis. The just world hypothesis states that people have a need to believe that their environment is a just and orderly place where people usually get what they deserve (Lerner & Miller, 1978). It is also suggested that beyond consideration of deservingness of outcomes, individuals may characterize

a just world based on procedural rules and interpersonal treatment (Lucas, Alexander, Firestone & LeBreton, 2006).

In a society where there is no guaranteed right to civil counsel, is the public aware of the justice gap? Is the lack of the right to civil counsel part of the public's perception of the meritocracy inherent in a "just world"? Does the public infer the right to counsel already exists based on knowledge structured by their just world beliefs? What happens when reality conflicts with one's cognitive construction of a just world?

This study will be completed in two parts. In the first part of the study, we will investigate what happens when an inconsistency in procedural justice is identified and if expectations of procedural justice are related to the belief in a just world. Participants will be asked about their perceptions of a procedural just world; basic legal knowledge about right to counsel; and their normative beliefs about what "should be" the case for the right to counsel. The information is intended to determine whether people with strong just world beliefs draw inferences from what they think "should be" the case to determine what they think the case is in fact.

In the second part of the study, we will attempt to prime justice related beliefs with stories of historical events with just or unjust outcomes followed by the same survey measures from the first portion of the study. Findings from this portion of the study will be used to determine potential frames to bring an argument for a broader Civil Gideon movement in the future.

#### Scientific Significance and Intended Audience

The scientific goal of this study is to determine if the perception of a just world leads participants to infer the rules pertaining to the right to counsel and determine if perception of a

just world translates to participants belief in the right to legal counsel. The findings from this study will be used to inform a political roadmap for placing Civil Gideon on larger statewide and nationwide agendas in the future by better understanding how to frame an argument about the right to civil counsel to the general public.

The information gathered in this thesis is intended to inform Civil Gideon advocates about general public knowledge and public desire for the right to civil counsel. Information in this thesis may help advocates in other states learn how to best gain public support for the initiative in states where legislatures are considering similar programs. Specifically, this research will inform current implementers of the ten Shriver Project pilots throughout California that will be up for renewal of funds in 2016 pending an external evaluation and review by the Administrative Office of the Courts (AOC) (Fact Sheet, 2012).

### Road Map

First, I will provide an overview of the justice gap and current proposals for broadening the scope of the right to civil counsel movement. Following that introduction, I will discuss the psychological definition and background of the concept of “belief in a just world” and discuss the findings and implications of the two studies conducted as a part of this thesis. The conclusion will discuss how the findings from these studies can be applied to a future right to civil counsel movement based on historical evidence from prior movements, through emerging programs across the country, and approaches suggested by prominent Civil Gideon proponents.

## **Confronting the justice gap: Past and present efforts**

### The Justice Gap

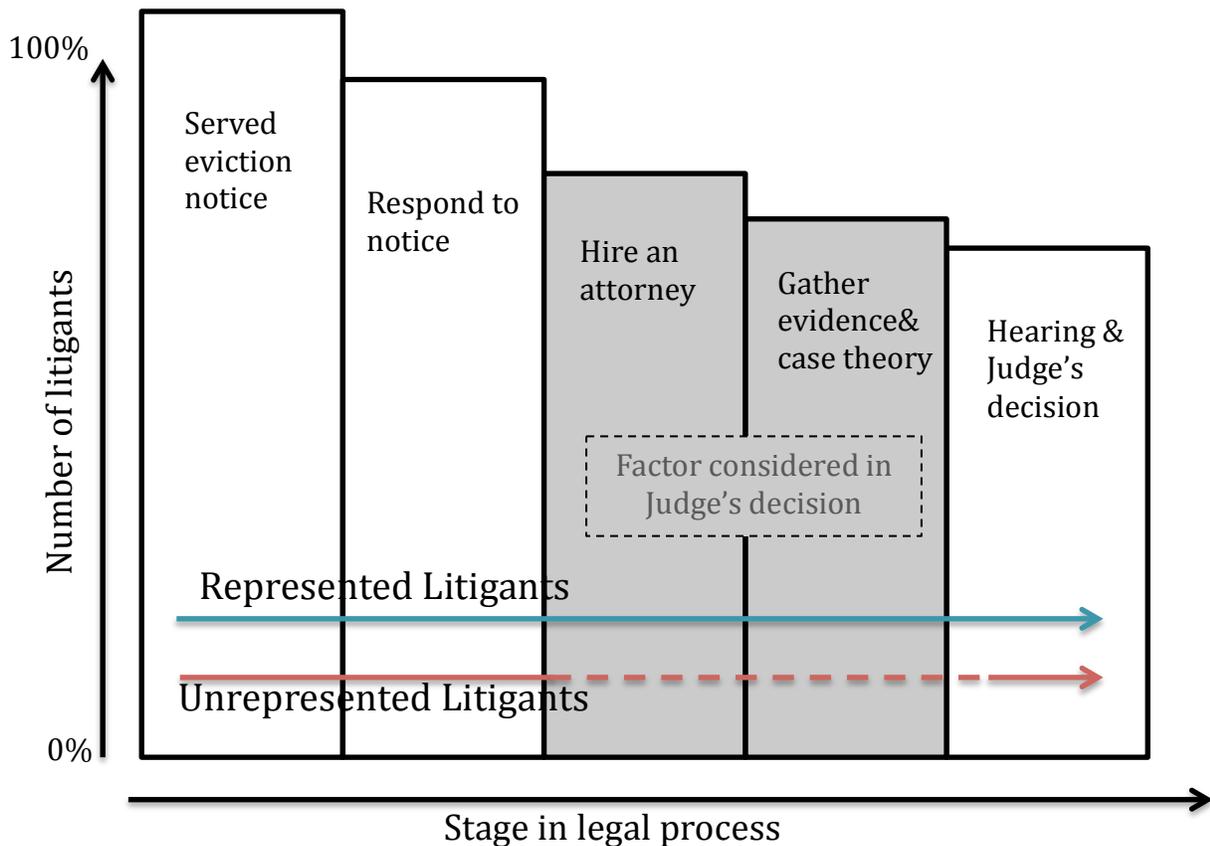
Arguments for the right to civil counsel are supported by a strong base of empirical data about the expanding justice gap in the United States. A recent study found that about 80% of indigent civil litigants do not have their legal needs met (Houseman, 2007). Another study cites that nearly 45 million American currently earn incomes that should qualify them for federally funded legal aid. However, the budget for the Legal Aid Services Corporation, the largest federal source for legal aid funding- has been continually cut over the past decade- estimating that nearly one million cases are turned away annually due to a lack of resources (NCCRC, 2012).

Despite the growing body of evidence, surveys continue to show little public awareness about the problem. A study conducted in 2009 found that 79% of citizens believe that poor people already have a right to legal counsel in civil court (Bindra & Ben-Cohen, 2003, p.3); nearly 88% of participants believed that non-profit legal assistance should be available to those who cannot afford legal counsel; and two-thirds of those said they would support increasing federal funding to help those that need assistance (Brophy, 2011, p.1).

The justice gap also refers to the inherent inequality in cases in which one party has legal counsel while the other party does not. Figure 1, below, provides a visual representation of the rights unrepresented litigants forfeit when they do not have counsel. It is also important to notice how the number of litigants decreases between the time of notice and the judge's final decision. This trend is a result of two major dropout points: the first at the response. Many litigants, unable to afford an attorney and lacking the self-efficacy to seek assistance at a self-help center, elect not to take part in the legal process at all. The second dropout point occurs when a settlement is reached between the parties before the hearing. The figure highlights the eviction process, a

proceeding in which the court aggressively encourages settlement. These settlements occur “off the record” from the court and often times can pose a serious disadvantage to the unrepresented litigant as opposing counsel will often take advantage of the pro se litigant’s unfamiliarity with the legal system and proper legal practices (Ramos; Goodman).

Figure 1: Visual representation of the justice gap



While there are several types of civil cases in which indigent litigants deserve representation the following section will address the types of cases identified as pertaining to basic human need: housing, child custody, domestic violence, and guardianship. These cases are deemed of basic human need because they are considered to be cases which can deprive persons of the most personal liberty and may have a dramatic impact on the wellbeing of minor children.

*Evidence in Unlawful Detainer Cases:*

A study of Arizona housing courts found that in 626 cases observed not a single tenant had legal representation while the landlord had legal representation in 87% of the cases (Brophy, 2011, p.3). In the state of California in 2005, 34% of landlords and more than 90% of litigants were unrepresented in housing disputes (Bleich, 2008). A compilation of studies of housing courts concluded that the one variable that consistently halts swift victory for the landlord is representation for the tenant- with an estimated range of improving outcomes for the tenants by three to nineteen times (Engler, 2010, p.47).

Tenants remain at a disadvantage due to their lack of power in the court system, as landlords are typically repeat players. David Eldridge's study (2006) of Philadelphia housing courts concluded there is very little landlords can do to undermine their relative position of strength. By providing landlords with quick judgments, judges in high volume courts can move much more quickly and efficiently, however, often at the cost of silencing unrepresented tenants.

*Evidence in Child Custody Cases:*

In child custody decisions legal representation tends to favor the parent with representation. When neither parent had an attorney, the mother received sole custody almost 80% of the time while when both parents had representation the mother received custody about 64% of the time (Brophy, 2011, p.4). Additionally, cases where both parties are represented showed an increase in the likelihood of electing for shared decision making, such as joint legal custody, and an increase in the number of visits scheduled for the non-custodial parent (Engler, 2010, p.52). The outcomes of child custody cases, rather than eviction cases, focus on determining the best interest of the child- a multifaceted concept that may also require access to additional court resources such as minor's counsel.

*Evidence in Domestic Violence Cases*

A study on domestic violence cases found that parties seeking protective orders with the aid of an attorney succeeded 83% of the time while those without counsel were granted protective orders 32% of the time (Brophy, 2011, p.5).

“Patching” the Justice Gap: Evaluation of Current Services

A multitude of factors have collided to create an atmosphere in which free legal aid services are needed more than ever. Since the 1980s, federal funding for legal aid services has stagnated as the number of Americans living at or below the poverty line has increased and the “legalization” of society has made proceedings more complicated than ever before (Bindra & Ben-Cohen, 2003, p.4; Brophy, 2011).

In an effort to improve access, many states/counties instituted self-help centers and hotlines for self represented litigants. Reports from such centers yield mixed results and typically can only assist litigants in a small range of relatively simple family and housing law cases. Findings in multiple states conclude that litigants assisted by a self-help center fare better than litigants who sought no assistance, but still fare worse than represented parties (Engler, 2010, p.67). Such numbers lead to the conclusion that self-help centers, while they make some improvement, are relatively inefficient unless paired with additional assistance in the courtroom (Engler, 2010, p.66).

Self-help centers report high rates of litigant and court satisfaction with the services provided despite mixed reviews of their actual effectiveness. Typically self help centers conserve court resources, reduce clerk workloads, and increase the likelihood that litigants reach judgments in a timely manner (Engler, 2010, p.72). In a study conducted in Los Angeles County, litigants reported reduced confusion and anxiety when assisted by self-help centers despite the

fact that case outcomes between assisted and unassisted litigants are indistinguishable (Engler, 2010, p.70).

However, researchers caution the data about case outcomes should be interpreted with caution. For example, litigants may use self-help to file a response to an eviction in order to “buy” additional time in the home fully knowing they have no viable defenses in the case (this can yield up at an extra 30 days while waiting for trial). While the valuable services that self-help centers provide to court and the litigants is widely recognized, an assessment of data by Hough (Engler, 73) concludes that self-help programs increase access to justice but are still far from bridging the gap.

Pro bono legal services certainly can provide some relief, but alone are not a sustainable solution to the representation problem. It is clear that the legal system is at a point where the growth of those in need of representation far exceeds the availability of the suppliers. A study conducted in Maine, the state with the highest pro bono rate in the country, showed that it was impossible for the State’s lawyers to volunteer enough time to meet the needs of the state’s indigents. In Mississippi the Volunteer Lawyer Project estimated receiving about 15,000 requests per year, about 1,500 (10%) of which that would be completed (Bindra & Ben-Cohen, 2003, p.6).

### History of Civil Gideon

There is a long and well-documented history of combatting inequality in the courts starting in the latter half of the 20<sup>th</sup> century and moving into the 21<sup>st</sup> century, particularly escalating with the landmark case *Gideon vs. Wainwright* (1963). Gideon established the right to an attorney in criminal cases that threaten an individual’s physical liberties such as a prison sentence. The court held the right to counsel for criminal cases is guaranteed by the Sixth

Amendment and applies directly to the Due Process Clause of the 14<sup>th</sup> Amendment due to the fact that “any person haled in court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.” (US Courts, 1963)

Despite the Gideon ruling, the Supreme Court has taken minimal steps towards guaranteeing legal counsel for indigent litigants in civil cases where basic needs and liberties are at stake as seen in *Lassiter v. Department of Social Services* (1981). Lassiter appeared in a termination of parental rights hearing without counsel while serving a prison term. The court determined that she (Lassiter) had sufficient time to obtain counsel and was not entitled to legal counsel because the outcomes of the case, presuming she lost, would not deprive her of physical liberty (Cornell Law, 1981).

Since Lassiter many cases have been taken to state supreme courts in attempt to guarantee rights to civil representation at the state level. The years especially after 2003, which marked the 40<sup>th</sup> anniversary of the *Gideon v. Wainwright* decision, saw a drastic increase in the amount of attention dedicated to the right to civil counsel by the legal community (Engler, 2010, p.43).

The state Supreme Court in Maryland in 2006 (*Fraser v. Barnhart*) and Washington in 2007 (*re Marriage of King*) ruled 3 to 4 that state constitutions do not require appointment of counsel in dissolution and custody cases or that counsel would be appointed on a case by case basis (Brooks, 2008, p.28). Alaska is currently the first and only to state to rule that the court must provide counsel to a parent in a child custody case if that parent is unable to afford counsel and if the other parent has private counsel under the equal protection clause and due process rights (*Gordanier v. Jonsson*, 2007). The ruling, however, is extremely narrow and will be difficult to apply in the vast majority of child custody cases.

With the courts refusing to make concrete changes to their stance on the right to representation in civil litigation, the chance to take action on the issue is in the hands of legislatures. In 2006, the American Bar Association House of Delegates unanimously passed a resolution endorsing civil right to counsel in cases concerning basic human needs (Abel & Livingston, 2008) and after the ABA Task Force on Access to Civil Justice published a resolution in support of implementing Civil Gideon (Engler, 2006, p. 700). With this resolution, state bar associations in California, Minnesota, Massachusetts, New York, and Pennsylvania followed by adopting resolutions in support of Civil Gideon pilot programs with nearly unanimous support (Brooks, 2008, p. 28).

### Justifying Civil Gideon

#### *Constitutional Approach*

Proponents of Civil Gideon base their argument on the due process and equal protection clauses of the constitution. The due process clause (the Sixth Amendment) has been the mainstay for the development of present right to counsel policies and served as one of the main justifications for the right to criminal counsel in *Gideon vs. Wainwright*. Justice Douglas explains of the *Gideon* ruling, “the Sixth Amendment embodies a realistic recognition of the obvious truth that the average defendant does not have the professional legal skills to protect himself when brought before a tribunal to take his life or liberty, wherein the prosecution is represented by experienced and learned counsel.” (Bindra & Ben-Cohen, 2003, p. 13).

Civil Gideon advocates have developed a strong argument in favor of the right to counsel based on rights to personal liberty. The three elements considered to determine if there exists a threat to personal liberty and therefore requires counsel are: “the private interests at stake, the government’s interests, and the risk that the procedures used will lead to erroneous

decisions” (Bindra & Ben-Cohen, 2003, p. 11). Based on these three requirements, the personal liberty approach merits the plight of the unrepresented, indigent litigant.

However, the Sixth Amendment as interpreted in *Gideon vs. Wainwright* and the ruling from *Lassiter* have served as the greatest limiting factors in further developing the civil right to counsel via the personal liberty argument. The Supreme Court decision in *Lassiter* drew the line for the right to counsel over deprivation of physical liberty, such as prison sentencing, rather than personal liberty. Bindra and Ben-Cohen argue this is problematic because physical liberty is typically only at stake in criminal cases while civil cases typically deal with issues where only personal liberty is at stake. This “critical error” means that in order to pursue a right to civil counsel through the sixth amendment, the court must reverse the *Lassiter* decision.

In addition to the Sixth Amendment, advocates assert that the denial of the right to civil counsel is a violation of the Fifth and Fourteenth Amendment’s equal protection clauses. However, these amendments require a “strict scrutiny” with an exceedingly high threshold for burden of proof. In order to meet the standard for strict scrutiny it must be proven that a fundamental right is threatened.

In the case of Civil *Gideon*, it must be shown that State deprivation of counsel to indigent civil litigants is an infringement on the fundamental right to representation. In order for the right to be considered “fundamental”, evidence must prove that a right must rise to the level of being explicitly guaranteed by the Constitution”- a standard that is so incredibly difficult to meet that even suffrage, the right to vote, is not explicitly mentioned as a constitutionally protected “fundamental” right (Bindra & Ben-Cohen, 2003, p. 20). While this certainly could be a litigation option, this task seems almost more insurmountable than reversing the *Lassiter* decision and therefore unlikely for the time being.

*Context-based Approach- Administrative Self-Interests*

While constitutional arguments are a vital component of establishing a broad right to civil counsel, advocates are careful to recognize that the “connection between law and politics is unavoidable and a litigation strategy that ignores political realities and the need to mobilize powerful political pressure is likely to fail.” (Engler, 2006, p. 709). To alleviate this issue, Robert Engler proposes a context-based approach that takes into account the varying interest groups and power holders in the legal system.

In order to achieve success through litigation, Civil Gideon must gain the same degree of support from major power players as Criminal Gideon. Engler notes that in *Lassiter*, the attorney general and many states opposed the constitutional claim unlike in *Gideon* where they wrote amicus curie briefs in support (Engler, 2006, p. 702). This obstacle, in addition to the overwhelming evidence that would be required to overturn *Lassiter* or meet the strict scrutiny requirement to be considered a fundamental right, leads supporters to consider other avenues other than or in addition to a litigation strategy.

Engler identifies “the fact that we seemed further from achieving Civil Gideon at the 40<sup>th</sup> anniversary of the decisions says less about the legal arguments in support of Civil Gideon, and more about the powerful and entrenched interests that have a stake in maintaining the status quo” (Engler, 2006, p. 700). There appears to be no opposition in the legal community to the idea that the justice gap exists and needs to be mended, rather, there is a range of possible alternatives less comprehensive than Civil Gideon that could be used in attempt to “patch” the gap.

If it is clear that the current status quo is unacceptable, then the larger question remains: what can be done to increase access for the unrepresented? First and foremost it is important to identify stakeholders that possess the power to suppress or propel a movement in support of the

right to civil counsel. In the case of Civil Gideon, Robert Engler points to the interest of court clerks, mediators, and judges, who working in the already overwhelmed legal system, do not wish to take on the burden of reaching out to “problem” unrepresented civil litigants.

One of the main alternatives to a Civil Gideon program many argue in favor of is increasing the roles of clerks, judges, and mediators to ensure unrepresented litigants do not waive rights due to lack of legal counsel. Engler argues “implementation of such revisions, or the realistic threat... is a crucial tool in changing the self interest of the players in the system... from potential opponents to potential allies” (Engler, 2006, p. 705) because it would place the burden of unrepresented litigants directly on clerks, judges, and mediators. By overextending (or at least threatening to overextend) tight court resources, key players may become more amenable to the creation of a right to counsel program or department rather than expanding the role of pre-existing court personnel.

#### *Context based Approach- Outside Social Pressure*

In addition to the use of policy to alter the self-interest of those in the court system, Engler notes the roles of grass roots organization and social movements in shifting self-interests of major court players. The Battered Women’s Movement, a faction which sprang from the larger women’s movement of the late 1960s and early 1970s, serves as an example of how outside media attention, education, and increasing public pressure changed court practices in Domestic Violence cases (Engler, 2006, p. 707).

The movement’s mantra, “we will not be beaten”, began a new social consciousness around the role of domestic violence in society and the women frame their campaign in terms of “facing brutality from their husbands and indifference from social institutions.” Advocates agree that one of the potential explanations for the decrease in violence against women is due to the

increased provisions for legal services specifically tailored to victims of violence as a result of the larger women's movement and battered women's movement.

Engler explains the court's move towards policies to hold batterers more accountable reflects how changes in public social consciousness can shift the interests of the court power players. He explains, that the self-interest of those within the court system shifted as well, resulting in court staff working to confront the issue of domestic violence as they no longer saw any benefit for suppressing the issue (Engler, 2006, p. 707).

## **Psychological Underpinnings of Justice**

Based on this history of Civil Gideon presented, there is a clear consensus about the need for reform within the legal community that seems unlikely through a litigation approach at this time. This places the burden for change on alternative outlets such as legislators, non-profits, and the public. As Engler suggests, perhaps part of the failure of the Civil Gideon movement at this point in time is the failure to mobilize a grass roots public base as in the Domestic Violence/ Women's Movement (Engler, 2006).

Despite the severity of the justice gap, very few people are aware of its existence and the impact it has on many people's lives. The following study will explore psychological concepts of justice and study how justice beliefs may be used to make false inferences in unfamiliar situations. The information from this study will be used to understand how justice related reasoning can be applied to the current public understanding of civil counsel and the potential to influence public perceptions of injustice to build support for expanding the right to civil counsel.

### Belief in Just World

The belief in a just world (BJW) hypothesis in its simplest sense proposes that individuals want to believe they live in a world that is fair (Lucas, Alexander, Firestone & LeBreton, 2006, p. 71). It is suggested that this need is intended to assist individuals in confronting their physical and social environments in a way that is stable and orderly (Lerner, 1978), and is manifested in how people cope and react to experience of justice and injustice (Lucas et al., 2006). This desire for "cognitive balance" tends to associate the harmonious existence of happiness with goodness and unhappiness with wickedness, while the existence of happiness and wickedness are considered "discordant and therefore unlikely" (Rubin & Peplau, 1975).

The belief in a just world measure became of interest to researchers in the early 1970s when studies by Rubin and Peplau began to attempt to create a general measure for belief in a just world. These scales found that those with a strong BJW tended to blame victims for their misfortunes, and conversely to perceive success as a virtue (Rubin & Peplau, 1975, p 67). Additional research found a close relationship between BJW characteristics and belief in a protestant work ethic, internal locus of control, religiosity, trust, and authoritarianism (Rubin & Peplau, 1975, p. 82-84)- attitudes that today are typically associated with conservative social beliefs.

Researchers have suggested three main developmental perspectives for BJW: the social learning perspective, motivational perspective, and cognitive-developmental perspective. The social learning perspective suggests that children inherently pick up on the “fairness” of the world by internalizing social norms from role models. Not fully satisfied by this theory, the motivational perspective proposes that in order to understand the world as just, children must be able to delay gratification- thus proving they trust they will get what they deserve in the end because others do too (Rubin & Peplau, 1975, p.74).

Finally, the cognitive-developmental approach integrates stages from Piaget and Kohlberg’s moral development theories. The process begins as children mature and abandon their belief in immanent justice- the belief that a fault will automatically bring about its own punishment. With this development, children graduate to Kohlberg’s concept of conventional morality in which justness is based on “duty oriented” tendencies to uphold authorities and social institutions (Rubin & Peplau, 1975, p. 74).

Only Kohlberg’s third level is when individuals are capable of understanding fairness in the broader concept of human rights and might be willing to challenge the actions of authorities

that conflict with higher standards of justice. It is in this stage it is likely an individual may be willing to abandon his/her belief in a just world (Rubin & Peplau, 1975, p. 74-75).

Since the original literature published primarily by Rubin & Peplau, the BJW scale has come under considerable scrutiny due to its lack of internal consistency and poor psychometric qualities (Lipkus, 1991, p.1171). As a result, while the findings from these foundational studies provided a base for BJW, the results should be interpreted with caution. Currently, BJW research is focusing on a wide range of individual difference measures that have helped to expand the theoretical underpinnings of the concept of psychological justice.

A study conducted by Testé & Perrin (2012) focused on the role of social desirability of belief in a just world. Findings split the concept of BJW into two separate components: Belief in just world for the self (BJW-S) and belief in just world for others (BJW-O). BJW-S is intended to measure the individual's feelings of personal control while BJW-O measures the degree to which individuals attribute personal control to others.

Findings showed that BJW-S, the interpretation of events as fair for the self, is a highly desirable trait due to the normativeness of equality and benevolence in western societies (p. 215). On the other hand, BJW-O, belief in the ideal society as a pure meritocracy, is perceived as socially less desirable (p.216). The implications of this study seem to indicate that BJW-O is related to individual perceptions of fairness similar to the original BJW studied initially by Rubin & Peplau (1975) in which BJW is associated with conservative social attitudes and victim derogation, and that this perception has since fallen out of favor with the public since the original studies in the 1970s.

In addition to the study of BJW as it applies to the self and to others, measures have been developed to measure more concrete components of justice. Lucas et al, (2006), developed a

scale focusing on the measure of distributive justice and procedural justice. The distributive just world concept focuses on individual evaluation of fairness of outcomes, allocations or distribution of resources, similar to the global just world scales. The procedural just world concept focuses on individual evaluation of fairness of the decision making process such as fair rules, procedures, and interpersonal treatment (Lucas et al., 2006, p. 80).

The principal of justice is the foundation of the judicial system, which aims to ensure equal access and procedural due process to all members of society. Previous studies have suggested that in many cases individuals make unique judgments about the fairness of outcomes versus procedures. Most importantly, individuals are interested in procedural justice to the extent that processes can affect the fairness of the distribution of outcomes (Lucas et al., 2006). Important then to our understanding in belief in a just world, is an understanding of the human desire for justice and psychological theories of justice.

### Theories of Justice

There are a number of theories as to why humans are concerned with justice in interactions. Some argue that it is a strategic choice to maximize personal gain and minimize personal risk- a concept known as rational choice theory; while others contend that justice has become a moral imperative of social life rather than a means of personal gain- a concept known as the justice instinct. These two approaches propose radically different purposes of justice in society. In rational choice theory, justice is a means to achieving the goal of the state while justice motive is considered an inherent element of the state (Montada, 2002, p. 43).

Rational choice theory poses that justice is a manifestation of self-interest. It asserts that “people expect others to follow norms, and they observe the norms themselves because they believe it the best rational choice... and therefore the best way of enjoying long term benefits”

(Montada, 2002, p. 43). This psychological concept is closely linked to the political concept of social contract theory that contends that actors work in their self-interests in hopes of achieving mutual benefit in the long run. This approach is often critiqued for its overly simplistic “economic” approach to human nature for attempting to reduce actions to a singular motive when in reality decision making is a result of several competing cognitive processes (Montada, 2002, p. 51).

Melvin Lerner was the first psychologist to postulate an inherent *justice instinct* (Lerner, 1978). Rather than suggesting that justice is a product of self-interest, Lerner proposes that justice is a primary (or primordial) instinct that cannot be derived from any other motive (Montada, 2002, p. 49). Lerner argues that a personal contract is developed throughout life and develops into automatic cognitive structures that outline rules of justice. The personal contract is then used in order to maintain the integrity of one’s ingrained cognitive structures of justice (p. 17) that Lerner suggests are based on the understanding of three factors: “the unit”- the self; “similarity”- the familiar other; and the “non-unit”- the unfamiliar other (p. 15).

The justice motive, although automatic, is one factor among many others in the decision making process. For one, decisions can be based on various types of justice such as equity, need, procedural or distributive means, etc. - each of which warrants a unique outcome. Despite the various rules, actors typically based their decision on a singular rule of justice rather than several which can lead to a diverse range of “just” outcomes (Montada, 2002, p.42). In addition to the various forms of justice, Lerner also argues that the instinct, while always present initially, can be overridden by other automatic factors such as stereotypes or social norms (Lerner, p. 20).

A study by Montada, Schmitt, & Dalbert (1986) revealed relatively privileged participants reactions to injustices among underprivileged populations can be characterized into

two manners: employment of defense mechanisms or existential guilt. The automatic reaction to such injustice based on rational choice theory presents three defenses: denial of discrepancies, justification of own privilege as deserved, and justification of disadvantaged fate as self-inflicted (victim derogation) (Montada, et al., 1986, p.11). By asserting these defenses, the actor is able to maintain his or her cognitive justice structures and validate the injustice internally.

However, not all participants fell into the defense mechanism category as rational choice theory would expect. Those with liberal political beliefs or who actively supported underprivileged communities were more likely to experience empathic guilt. Existential guilt is considered an extension of the concept of empathetic distress- discomfort caused by the misery of others. Existential guilt builds on empathic distress by adding the additional internal conflict due to the nature of one's perceived privileged as an injustice in comparison to the situation of those who are disadvantaged (Montada, et al., 1986, p. 14).

This concept of empathic guilt stands in stark contrast to rational choice theory that argues those with relative privilege should act in their own best interest. Rather than following the defense mechanisms to eliminate their threat to their cognitive justice structure, those who experience existential guilt are likely to become more involved in social action and societal critiques to relieve their internal conflicts. Montada et al. argue that the fact that actors seek justice as a moral imperative rather than in their own self-interests provides further evidence for the justice instinct as an automatic and deeply engrained facet of human nature rather than an economical decision making tool (Montada et al., 1986, 19).

## Hypotheses

Despite clear differences in their approaches to how we perceive and process injustice, both rational choice theory and justice instinct theory assert that ultimately people seek to maintain balance in their perceptions of a just world (Lerner, 1978; Montada, 2002). As a result, those who witness unjust outcomes will compensate through either defense or guilt based on streamlined economic thought or based on automatic cognitive structures.

Building on these theories, this study intends to investigate a new dimension of justice research to understand how justice or injustice might be interpreted in situations where the outcome is unfamiliar or unclear. Based on findings from numerous surveys over the past decade (Ben-Cohen & Bindra, 2003; Brophy, 2011), it is clear that the general public is unaware that the United States legal system does not provide a legal right to civil counsel and serves as a suitable subject for understanding how normative inferences may influence perceptions of descriptive knowledge based on just world beliefs.

The first portion of the study asked participants about their normative beliefs, what they think *should* be the outcome, and descriptive knowledge, what they think factually *is* the case, about the right to civil counsel, we will attempt to understand the logic behind inferred just world beliefs. It is expected that those who believe the world is just will have consistent descriptive and normative beliefs because they assume what *is* the case and what *should* be the case must be congruent.

Therefore, it is likely that when a person assumes the right to civil counsel should exist it therefore must be true. Such logic leads to the perceptions of the legal system as fair; however, such assessment is based on biased normative beliefs rather than actual fact. Conversely participants with looser just world beliefs will be more likely to have inconsistent normative and

descriptive beliefs. Because their justice framework is much less rigid than strong just world believers, they will be more open to possibility of contradiction between what they think should be the case and what is the case.

The second portion of the study attempts to assess the flexibility of just world beliefs by exposing participants to either consistent (just) or inconsistent (unjust) historical narratives. It is predicted that participant's normative and descriptive beliefs will vary more as a result of reading historical narratives about unjust events in comparison to participants who read about just historical events. If influencing just world beliefs is to some degree possible, it may provide further implications for invoking feelings of empathic guilt over automatic activation of defense mechanisms (Montada et al, 1986) and provide insight into the malleability of the cognitive justice structures proposed by Lerner (1987).

In the context of Civil Gideon, this study intends to explore how to go about bringing such a niche agenda item to public attention. Based on these hypotheses, the study intends to show that public ignorance of the issue at hand is to some degree a result of false assumptions based on normative beliefs rather than fact. Secondly, the study intends to understand how reactions to perceived injustices pertaining specifically to an unfamiliar situation such as Civil Gideon can be used to influence public opinion and potentially highlight constituencies that may be mobilized by exposing such inconsistencies between their normative beliefs and reality.

## **Study 1: Measuring Justice Beliefs**

### Participants

Survey participants were recruited via the amazon m-turk service. M-turk is shown in many psychological studies to provide a more representative sample than if data were collected from a college student population or if the survey were administered off campus in the local area (Casler, Bickel & Hackett, 2013). In order to be eligible for participation, participants were required to reside within the United States (confirmed by IP address) and be at least 18 years of age or older. All participants were treated in accord with APA Ethical Principles on conduct for research with human participants.

The study included a total of 251 participants, 93 of which were male (37%) and 158 female (63%). The age of participants ranged from 18-74 years-old with an average of 39 (SD=14.1) years. For the purpose of this survey, participants were also asked to provide information about their race, education level, and political orientation as these factors tend to influence just world beliefs. The table on the next page detail information about education, income, and self-identified political beliefs and also provides information about how the sample collected compares to the at-large population based on US Census data:

*Table 1: Participant race/ethnicity*

<b>Race/Ethnicity (N=251)</b>	
<b>White</b>	83%
<b>African American</b>	6%
<b>Asian/Pacific Islander</b>	3%
<b>Hispanic Origin</b>	3%
<b>Native American</b>	2%
<b>Other</b>	2%

*Table 2: Educational attainment of sample and general population*

<b>Educational Attainment (N=251)</b>	<b>Sample</b>	<b>General Population</b>
<b>Did not finish high school</b>	1%	12%
<b>High school</b>	10%	31%
<b>Some College</b>	29%	26%
<b>College</b>	43%	19%
<b>Masters/PhD</b>	16%	11%
<b>Other</b>	1%	n/a

Data based on US Census 2011:

[https://www.census.gov/newsroom/cspan/educ/educ\\_attain\\_slides.pdf](https://www.census.gov/newsroom/cspan/educ/educ_attain_slides.pdf)

*Table 3: Self-identified political orientation*

<b>Political Orientation (N=251)</b>	
<b>Liberal</b>	42%
<b>Conservative</b>	24%
<b>Independent</b>	21%
<b>Libertarian</b>	7%
<b>Other</b>	7%

Data was also collected about participant experience in the legal system. Of 251 participants, 151 (60%) of participants said they have never been a part of a legal proceeding, while 100 (40%) said they have. This information was collected because it is expected that personal experience in a legal proceeding might have some influence on perceptions of justice and knowledge of the legal system. Information about participant experience by legal type is included in the table below

*Table 4: Type of legal proceeding in which participants have been a party*

<b>Type of proceeding (N=100)</b>	
<b>Civil</b>	60%
<b>Criminal</b>	21%
<b>Both</b>	15%
<b>Unsure</b>	4%

These findings should be interpreted with caution due to the fact that the sample consisted of a mostly white participants and the sample is considerably more educated than the general population (see Table 2, above). Recruiting via m-turk helped recruit a broad age range of participants, however, use of the service may have resulted in the exclusion of low-income populations with lesser access to personal computers and regular Internet access which may further skew results.

### Materials

The survey consists of three measures: the procedural and distributive just world scale (PJW/ DJW) (Lucas et al., 2006), descriptive legal knowledge task (DLK), and normative legal knowledge task (NLK). Each of these tasks will be presented to participants in a random order with filler tasks between each. The procedural and distributive just world measure is a 10 questions survey (5 questions for procedural justice, 5 questions for distributive justice). Initial

validation results show that the scales have a high internal consistency with Cronbach's alpha of 0.89 for PJW and 0.88 for DJW (Lucas et al. 2006, p.77).

The descriptive legal knowledge and normative legal belief scales are made specifically for the purpose of this study. The descriptive legal knowledge scale asks participants to answer 9 questions about the right to counsel in civil and criminal cases on a six-item likert from "certainly false" to "certainly true." In the normative knowledge tasks, participants were asked to answer the same questions from the descriptive knowledge task, however, this time they were asked to choose if there *should* be a right to counsel in the same civil and criminal scenarios on six-item likert scale from "strongly disagree" to "strongly agree." An example of "matched" DLK and NLK questions are included below and full list of measures are included in the appendix.

DLK: Bill and Sandra are being evicted from their home of 5 years. *They are entitled* to free legal counsel to represent them in court.

NLK: Bill and Sandra are being evicted from their home of 5 years. *They should be entitled* to free legal counsel to represent them in court.

### Procedures

In the survey design, every participant answered all three survey measures listed above (BJW, DLK, NLK). After completing the informed consent page, participants were presented with the measures in random order with two short filler items between each survey. The survey took between 15-20 minutes to complete and participants were compensated 60 cents for their participation in the study.

### Results

After initial data collection, participants trended towards a mid level of belief in a just world on 1-7 likert scale (M= 4.21, SD=1.16). Rather than a traditional true/false paradigm, the

DLK scale used a 1-6 likert scale from 1 “certainly false” to 6 “certainly true.” Use of this scale allows for participants to not only provide an answer but also their degree of confidence in their answer. On the DLK score, participants trended towards uncertainty with an average score of 3.42 (SD=1.22). The NLK scale also was scored on a 1-6 traditional likert scale from “strongly disagree” to 6” strongly agree.” In general responses tended from neutral to somewhat agree with an average score of 3.86 (SD=0.74).

*Table 5: Mean scores for main survey measures*

<b>Measure</b>	<b>Mean</b>	<b>SD</b>
<b>Belief in a Just World (BJW)</b>	4.21	1.16
<b>Descriptive Legal Knowledge (DLK)</b>	3.42	1.22
<b>Normative Legal Knowledge (NLK)</b>	3.86	0.74

In particular, measurement of the DLK and NLK scores focused on five questions that elicited a wide range of responses from participants: four questions pertaining to the civil right to counsel, and one general question (see Table # below). While the DLK scale measured participant knowledge about the civil right to counsel, the NLK scale measured participant support for right to civil counsel in each specific case. The DLK and NLK questions were matched meaning that the scenarios remained the same between the DLK and NLK scales aside from minor changes in language.

Chronbach’s alphas to measure internal consistency for the BJW and DLK scores were strong with  $\alpha = 0.94$  and  $\alpha = 0.71$  respectively, while the alpha for the NLK scale was relatively low at  $\alpha = 0.0.4$ . The BJW scale consisted of the distributive and procedural just world subscales that were positively correlated  $r(249)=0.76$  ( $p<0.01$ ) indicating that participants who scored high on procedural just world scale also scored high on the distributive just world scale and vice versa.

The table below characterizes participant responses to the four right to civil counsel questions. The first question focuses on housing eviction, followed by parental rights hearing, divorce/family law, and general support for civil counsel. On the DLK scale, answers were either false (1-3 on likert scale) or true (4-6 on likert scale). On the NLK scale, answers were either negative (disagree, 1-3 on likert scale) or positive (agree, 4-6 on likert scale).

Table 6: Frequencies on DLK vs. NLK scores. (\*indicates correct answer on DLK scale)

Question	Descriptive Knowledge	Normative Beliefs
Bill and Sandra are being evicted from their home of 5 years. They are entitled to free legal counsel to represent them in court.	True: 38.6%	Positive (Yes): 47.0%
	<b>False: 61.4%*</b>	Negative (No): 53.0%
A parent has failed to make child support payments and the court is considering terminating his parental rights. The court is required to appoint an attorney to represent him if he cannot afford one.	True: 60%	Positive (Yes): 66.5%
	<b>False: 39%*</b>	Negative (No): 33.5%
Frank has hired an attorney and petitioned for divorce from his wife, Jenny. Jenny does not have enough money to hire an attorney on her own. The court will appoint one for her.	True: 45.4%	Positive (Yes): 72.1%
	<b>False: 54.6%*</b>	Negative (No): 27.9%
People who cannot afford an attorney have access to free legal counsel in both criminal and civil cases.	True: 49%	Positive (Yes): 78.9%
	<b>False: 51%*</b>	Negative (No): 21.1%

Based on the information presented above, there is a clear gap between participant knowledge of the right to counsel and their support for the right to counsel. For example, in the general question while slightly over half (51%) correctly identified false as the answer, the majority (78%) or participants support the statement on the normative scale. In order to better

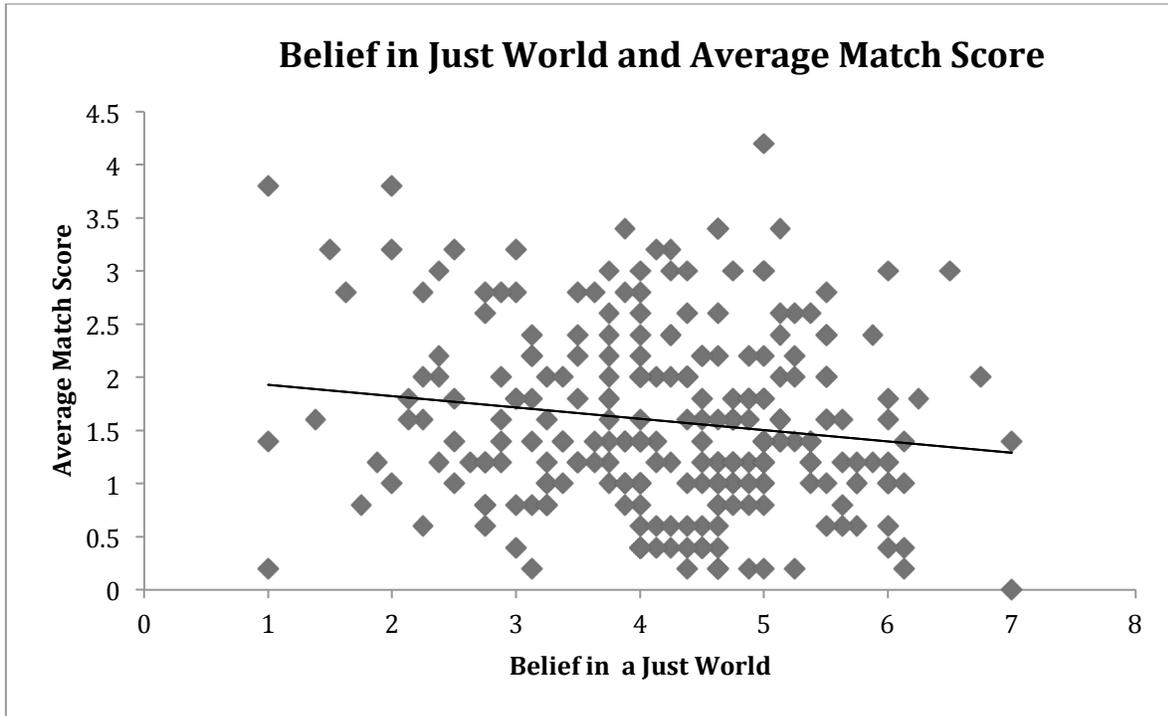
understand the switch from the DLK to the NLK scale two additional variables were calculated: the average match score (MatchAvg) and contradiction score (Contra).

The average match score is used to quantify how much participants answers varied between the DLK and the NLK scale for each question with the equation as follows:  $\text{abs}(\text{DLK\#} - \text{NLK\#})$ . The score is calculated as an absolute value in order to focus simply on the degree of variance rather than the directionality. The degree of variance of answers between DLK and NLK scores was compared to the average BJW score in order to determine if just world beliefs are related to consistent answers between the DLK and NLK scales.

Rather than focusing on the degree of variance, the contradiction score is used to determine how many times participants contradict themselves outright. The contradiction score (contra) is calculated by determining the number of times a participant switched from “true” on the DLK scale to “negative” on the NLK scale or vice versa (“false” to “positive”). As a result, the contradiction score is a frequency score used to determine the number of times switched rather than an average degree a participant’s answers varied such as in the average match score. The score is compare to the overall BJW score to understand the relationship between just world beliefs and not only variance between scales, but conflicting answers between the DLK and NLK scales.

The average match score and contradiction score were used for comparison with the BJW scale. In a basic correlation, both variables had significant negative relationships with BJW score, MatchAvg  $r(249) = -0.15$  ( $p < 0.05$ ,  $R^2 = 0.02$ ) and Contra  $r(249) = -0.15$  ( $p < 0.05$ ,  $R^2 = 0.02$ ) (Graphs on next page). The negative relationship indicates that a decreased in BJW beliefs is related to increased likelihood of participant variation or contradiction in their answers on the DLK and NLK scales and vice versa.

Figure 2 and 3: Correlation between Average Match/ BJW Score and Contradiction/ BJW Score



## Discussion

Primary findings showed that participants were more aware of the lack of right to civil counsel than in previous studies. As opposed to findings showing only 20% of Americans are aware of the lack of right to civil counsel, about half (51%) answered the question correctly. It is possible this increased awareness is due to the passage of time, as the most recent survey dated from 2009, however, it must be noted that the sample population tended to be more educated than the general population with the majority (about 70%) holding a college degree or having completed some college. (See Table 1 in participants section).

In terms of BJW, the DLK, and NLK scales, findings were consistent with initial hypotheses. The negative relationship between BJW and the average match and contradiction scores indicates then that just world beliefs are associated with low rates of variability of answers and are less likely to self-contradict. Conversely, those with a less rigid perception of meritocracy and construction of absolute justice, are more likely to vary their answers or contradict themselves when they realize what that what they think should be the case may not in fact be the reality.

These findings support the hypothesis that in situations where the outcome is unknown, people with strong just world beliefs may draw inferences from their normative beliefs to support false descriptive beliefs. These results point to a possible reason for why certain social issues often have difficult gaining traction with the public. Especially in the legal system where equality is assumed a prerequisite, the general public seems to falsely assume that the system is just and therefore the right to civil counsel must already exist.

## **Study 2: Manipulating Justice Beliefs**

Understanding that people can draw false inferences from their normative beliefs, the second portion of this study will focus on exploring what might happen when just world beliefs are challenged. By exposing participants to either just or unjust historical narratives and then completing the same three BJW, DLK, and NLK scales, we will test to see if people's cognitive justice structures can be challenged to disrupt the congruency of just world inferences.

### Participants

For this second portion of the study, survey participants were once again recruited using the amazon m-turk service. Consistent with the previous study, participants were required to reside within the United States (confirmed by IP address) and be at least 18 years of age or older. All participants were treated in accord with APA Ethical Principles on conduct for research with human participants.

The study included 162 participants in total, 83 (51%) of which were randomly assigned to the consistent condition and 79 (49%) of which were randomly assigned to the inconsistent condition. The sample included 60 males (37%), 101 females (62%), and one participant who identified as "other." Participant age ranged from 18 to 73 years of age with an average age of 42 (SD=14.5) years-old.

As in the previous study, participants were asked to report their race, education level, and self-identified political affiliation as these factors might interfere with participant just world beliefs. The table below details the sample demographic information compared to population at large based on the most recent census data to get a sense of the representativeness of the sample.

*Table 7: Participant race/ethnicity*

<b>Race/Ethnicity</b>	<b>(N=162)</b>
<b>White</b>	80%
<b>African American</b>	7%
<b>Hispanic Origin</b>	5%
<b>Asian/Pacific Islander</b>	4%
<b>Other</b>	2%
<b>Native American</b>	1%

*Table 8: Educational attainment of sample and general population*

<b>Education (N=162)</b>	<b>Sample</b>	<b>General</b>
<b>High school</b>	11%	31%
<b>Some College</b>	35%	26%
<b>College</b>	38%	19%
<b>Masters/ PhD</b>	15%	11%
<b>Other</b>	1%	n/a

Data based on US Census 2011:

[https://www.census.gov/newsroom/cspan/educ/educ\\_attain\\_slides.pdf](https://www.census.gov/newsroom/cspan/educ/educ_attain_slides.pdf)

*Table 9: Self-identified political orientation*

<b>Political Identification</b>	<b>(N=162)</b>
<b>Liberal</b>	45%
<b>Independent</b>	25%
<b>Conservative</b>	18%
<b>Libertarian</b>	6%
<b>Other</b>	6%

Participants were also asked about their previous experience in the legal system because it is expected that such experience may influence perceptions of justice and overall knowledge of the legal system. Of 162 participants, 90 (56%) had not been involved in a legal proceeding while 72 (44%) had been party in a legal proceeding. The participants who have prior experience in the legal system were asked to indicate the type (or types) of cases they were involved in as seen in Table 10, below.

*Table 10: Type of legal proceeding in which participants have been a party*

<b>Type of legal proceeding</b>	<b>(N=72)</b>
<b>Civil</b>	63%
<b>Criminal</b>	19%
<b>Both</b>	7%
<b>Not sure</b>	1%

The sample is relatively representative of the population at large in the United States in terms of gender and age. However, the participants were considerably more educated than the general population (See table 8, above) and therefore could skew results slightly. As with the previous study, recruiting via m-turk helped recruit a broad age range of participants, however, use of the service may have resulted in the exclusion of low-income populations with lesser access to personal computers and regular Internet access which may further skew results.

### Materials

The second portion aims to determine if presenting participants with materials that are consistent or inconsistent with their just world beliefs can alter perceptions of justice and expressed reactions when one's justice structure is either legitimized or threatened. Participants were randomly assigned to two conditions of either consistent or inconsistent historical narratives presented in random order. Each narrative was between 250-350 words and was

followed by four comprehension questions. The narratives were all taken from a free high school United States history textbook online (narratives and source are included in Appendix A).

In the consistent group, participants were presented with three historical narratives: good things happening to good people (good/good), bad things happening to bad people (bad/bad), and a neutral narrative. The good/good narrative included a passage about the women's movement leading up to the passage of the 19<sup>th</sup> amendment (women's suffrage) and the bad/bad narrative passage was about the Watergate scandal and Nixon's resignation. The neutral narrative included a passage about Henry Ford and the invention of the Model T automobile. Each narrative was followed by three comprehension questions to check for understanding.

In the inconsistent group, participants read three historical narratives and completed comprehension questions: good things happening to bad people (good/bad), bad things happening to good people (bad/good), and the same neutral passage about the invention of the Model T. The good/bad narrative discusses how political bosses benefited from corrupt regimes and bribery during the 1870s-1890s. The bad/good narrative included a passage about the President Andrew Jackson's treatment of the Cherokee Nation and the Trail of Tears. Historical narratives were selected that had roughly the same degree of historical "magnitude" in order to ensure that the reactions to the consistent or inconsistent conditions will be of roughly the same degree.

After completing the narratives task, participants completed the same DLK and NLK scales along with demographic information as in the first portion of the experiment with several filler tasks. The DLK and NLK tasks will be presented in random order and questions have been randomized.

### Procedure

In the survey design, each participant completed the inconsistent or consistent historical narrative design and then completed the DLK And NLK scales. The historical narratives and the DLK/NLK scales were presented in random order respectively. The survey took between 20-25 minutes to complete and participants were compensated 60 cents for their participation in the study.

### Results

Chronbach's alphas to measure internal consistency for the BJW and DLK scores were strong with  $(\alpha)= 0.93$  and  $(\alpha)= 0.71$  respectively, while the alpha for the NLK scale was relatively low at  $(\alpha)= 0.0$ . The BJW scale consisted of the distributive and procedural just world subscales that were positively correlated  $r(249)=0.62$  ( $p<0.01$ ) indicating that participants who scored high on procedural just world scale also scored high on the distributive just world scale and vice versa.

In order to calculate variance and contradiction between the DLK and NLK scores the average match and contradiction scores were calculated in the same manner as in the previous study. A comparison of means between the consistent and inconsistent conditions showed a significant difference for both the average match score,  $t(160)= -2.33$ ,  $p<0.05$ , and contradiction score,  $t(160)= -2.53$ ,  $p< 0.05$ , in the expected negative direction. Table #, below, shows the means and standard deviations of the average match and contradiction scores for each condition.

*Table 11: Comparison of means between conditions*

	<b>Absolute Match</b>	<b>Contradiction</b>	<b>Just World</b>
<b>Consistent</b>	M= 1.42 (SD= 0.71)	M= 1.70 (SD= 1.15)	M= 4.06 (SD=1.21)
<b>Inconsistent</b>	M= 1.70 (SD= 0.80)	M= 2.16 (SD= 1.19)	M= 3.90 (SD= 1.10)

The negative relationship between the absolute match scores indicates that the inconsistent narratives influenced participants' responses to vary more widely than in the consistent condition. Following this trend, the negative relationship between the contradiction score means for each condition indicates the inconsistent narratives influenced participants to not only vary their answers, but to change their stance from congruent false/negative or true/positive beliefs to inconsistent false/positive or true/negative responses.

As a manipulation check, participants completed the belief in a just a world scale as well. There was no relationship between the means of the inconsistent and consistent condition and the average means were nearly identical with a slight trend in the expected direction table 11, above. The consistency of the just world score shows that despite manipulation, justice beliefs remain relatively constant and that contradiction and variance can occur independent of just world beliefs in order to maintain cognitive balance.

### Discussion

The difference between means for the inconsistent and consistent conditions indicates that justice beliefs can in fact be manipulated through invoking examples of injustice. Those in the inconsistent conditions tended to vary their answers more widely between the DLK and NLK scales and tended to contradict themselves between the DLK and NLK scales more often as well. Adding to these finding is the lack of significant difference in means between the BJW scores for each conditions.

This ability to influence DLK and NLK scores without influencing the just world score points to the automatic nature of justice beliefs proposed by Lerner's Justice Theory (1978). Despite the significant variation in means for average match and contradiction between conditions, the narratives were unable to influence procedural or distributive just world beliefs.

Similar to Montada et al.'s concept of existential guilt (1986), the reaction to historical injustice works in contrast to rational choice theory. Rather than focusing on the issue in the present, the inconsistent condition inherently leads to a break down of the justice inferences seen in the first portion of the study. By supporting Civil Gideon, participants of relative privilege expressed a belief not entirely in their own self-interest in the name of equality before the law.

The study of justice in social psychology is a young field, especially in terms of interpretation and reactions to injustice. Even less understood is the potential for practical applications of justice related beliefs in the public sphere and social mobilization. The information from this study adds valuable evidence to the understanding of justice in unfamiliar situations that can be utilized to increase the visibility of a variety of social justice issues in public consciousness.

#### *Application of findings to Civil Gideon*

The ability to manipulate perceptions of justice and elicit contradictions between the DLK and NLK scales is a helpful step forward in bringing the issue of Civil Gideon to the public consciousness. These findings suggest that the most valuable information that can be brought to the public about the issue should focus on the inconsistencies within current policy structures in order to breakdown false constructions of justice.

By focusing on the factual inconsistencies that highlight the contradictions in the justice system today, the public will likely desire to attain cognitive consistency in just world beliefs. The findings also suggest that this may happen regardless of the strength of just world beliefs, indicating that perhaps the activation of existential guilt or defense mechanisms are tied to another facet of relative privilege rather than strictly to just world beliefs.

*Limitations of the present study and suggestions for further study*

Consistent with the measuring justice beliefs study, the sample for this second study was considerably more aware of the lack of right to civil counsel with 52% correctly answering the general knowledge question correctly. This is likely to be a result of the large portion of the sample having attended some college or completed college (see Table 8).

Similar studies of just world beliefs and legal knowledge of low income or otherwise marginalized populations may warrant future study as the m-turk population is likely to exclude such groups. This would also be important because it would gather more information about the justice perspectives of groups that tend to be underprivileged rather than the privileged tendency of many psychology study samples.

Beyond the realm of Civil Gideon, these findings ideally would generalize to a broader range of social issues. However, due to the specific nature of the DLK and NLK scales, further testing using the same descriptive and normative construction is encouraged in order to understand if these findings can be replicated in the context of other social justice issues such as access to welfare or increasing the federal minimum wage.

## **Applying findings to various approaches**

This section will explore the various routes for advocating on behalf of the right to civil counsel. The information from the studies conducted as a part of this thesis will be used to inform portions of a Civil Gideon movement that require public support, however, involvement of the public is only one aspect of the support necessary to make progress towards closing the justice gap. This section will focus on approaches to Civil Gideon past and present, draw on examples from other movements in the legal system, and use these findings to synthesize an integrated advocacy, political, and litigation based approach to expanding the right to civil counsel. I will begin with the most traditional approaches such as litigation and then discuss the possibilities for more innovative approaches based on examples taken from other successful social justice movements and pilot programs in the field.

### Litigation Approach

The litigation approach is the most traditional approach to creating a permanent right to civil counsel, however, a victory in the Supreme Court would mean overturning *Lassiter* (1981). While overturning a decision is unlikely, Criminal Gideon went through a similar evolution beginning with *Betts v. Brady* (1942), in which the court ruled that counsel should be appointed in criminal proceedings on a case-by-case basis. The decision was overturned 20 years later by *Gideon v. Wainwright* (1963) when the court realized that the *Betts* approach was no longer sufficient (ABA Resolution, 2006, p.6).

While the Supreme Court has not heard a Civil Gideon related case recently, state supreme courts are slowly making progress. Some states have successfully made rulings in favor of the right to counsel, however, the scope of these rulings thus far have remained extremely narrow. California declared a right to civil counsel in paternity cases; Maine and Oregon

declared the right to counsel in dependency and neglect cases; and Alaska in child custody proceedings in which the other party is receiving free or pro-bono counsel (ABA Resolution, 2006, p.8).

Other cases pertaining to Civil Gideon have been decided by only one vote. In Maryland (*Frase v. Barnhart*, 2006), Washington (*re Marriage of King*, 2007), and Michigan (*re McBride*, 2009) State Supreme Courts rulings on the civil right to counsel for child custody cases were lost by merely one vote and strongly worded dissents were published by justices expressing the necessity of Civil Gideon (ABA Resolution, 2010, p.4-6). In New York State, an appeal for declaring the constitutional right to civil counsel for poor people in divorce cases also lost by one vote (*re Smiley*). Such close rulings suggests that with more concrete, empirical evidence supporting the benefits of right to civil counsel more liberal courts may be willing to make a more encompassing ruling in the near future.

Advocates urge that the lawyers must frame tenable claims for their clients to continue forging valuable social change. Author Beth Harris in her book *The Power of Anti-Poverty Lawyers* (2005), suggests that a successful litigation strategy will encompass a claim that will shape relief in a way that advantages people or entities beyond the plaintiffs by combining adversarial techniques with collaborative legislative and administrative advocacy; and acquire the resources necessary to see through the lengthy process of implementation of relief (Roisman, p.762-765).

Thus far the narrowness of the rulings that have gone to the higher courts have been a major shortcoming of the litigation approach. Through more careful selection of test cases and broader framing of claims, it is likely that the litigation approach will succeed in the future, however, it will likely require increased support from actors within the court system, such as the

attorney general, and outside the court system through a broader base of evidence expressing the undeniable necessity of counsel.

### Social Movement Approach

Grassroots social movements are perhaps the most visible way of making substantial social change. The Domestic Violence Movement was able to successfully advocate for policy that held the court system more accountable to battered women, however, domestic violence has remained a visible issue because it encompasses women of all social classes and racial/ethnic groups. The wide-ranging group of women within the domestic violence constituency, some with connections to powerful media and educational structures, helped to bring the issue to the forefront in a manner that Civil Gideon advocates currently cannot.

Those most adversely affected by the lack of right to civil counsel typically earn wages below the federal poverty line and are from minority racial/ethnic backgrounds. This group of constituents are among the most difficult groups to mobilize in political campaigns due to lack of time to commit to the cause. Additionally, such constituencies often find themselves at a disadvantage with little funding to launch attacks via media campaigns or through donations to political candidates who can publicize and support their cause in the legislature.

If those most adversely affected may be difficult to mobilize then, its important to consider the possibility of mobilizing other constituencies. Montada, et al's (1986) concept of existential guilt may be helpful in framing an argument that appeals to constituencies of relative privilege. The studies conducted as a part of this thesis produce an outline of an approach to increase public knowledge and sympathies through appeals that upset the congruency of justice structures.

From the results of the first study we can infer that the problem with lack of public knowledge at the moment is that many falsely infer that right to civil counsel already exists, not that they don't think it should exist. For this reason an education based campaign seems a logical next step. The second portion of the study, which showed that justice beliefs can be primed based on exposure to injustice, suggests that an educational campaign should pinpoint the contradictions within the system by expressing the magnitude of the justice gap's effect through the frame of inequality in order to be the most impactful.

#### Legislative Approach: Promising Pilot Programs

In 2009, three years after the ABA resolution endorsing Civil Gideon, the California State Assembly passed the Sargent Shriver Civil Counsel Act (CA AB 590, aka: The Shriver Project). The Shriver Project is not only the nation's first Civil Gideon pilot program, but also the largest with \$9.5 million per year funded by a modest \$10 increase in court filing fees. The bill established ten pilot programs focusing on representation in child custody/domestic violence, housing eviction, and probate guardianship throughout California that opened their doors in the 2011-2012 fiscal year.

The purpose of these pilots programs is two fold: to appeal to the moral argument and the economic argument for Civil Gideon. The text of the Shriver Project's legislation advocates first on behalf of bridging the justice gap in order to preserve the legitimacy of the legal system citing a public opinion survey in which two-thirds of Californians believed "low-income people usually receive worse outcomes" in court (CA AB 590, 2009, p.4). In order to mend this issue the bill claims that the public must sense decisions are made through fair procedures rather than the idea that money and access to representation drive the judicial system.

In addition to bridging the justice gap, the pilot programs are collecting extensive data about program implementation in order to develop strong base of empirical evidence to show the favorable outcomes that can be reached through Civil Gideon. A table with complete information about Shriver Project pilot goals, innovations, and implementation success after the first year of operation is included in Appendix B.

Congruent with Engler's context based approach of appealing to court power-players self-interests, the bill provides a compelling economic argument for how Civil Gideon will ultimately help to conserve scarce court resources and relieve the burden placed on court clerks, mediators, and judges. The bill notes, "when parties lack counsel, courts must cope with the need to provide guidance and assistance to ensure that the matter is properly administered... the efforts, however, deplete scarce court resources and negatively effect the courts ability to function." (AB 590, 2009, p.4). To further improve the appeal of the bill to court personnel and legislators, the pilot programs do take from already tight court budgets. Rather, they are funded by a previously approved \$10 increase in court filing fees.

The funding of the program through increased court fees rather than taxpayer money is one of the many innovative approaches the Shriver pilots bring to the plate. The bill frames the pilot program in the "new governance" approach (Salamon, 2002), which relies on pre-existing structures such as legal aid non-profits to implement the program rather than court staff. This new approach serves as a reasonable alternative to the still troublesome implementation of Criminal Gideon, which has dealt with significant shortages of funding and personnel over the past 50 years. To those still wary from Criminal Gideon's inconsistent implementation, this more 'hands off' approach provides a reasonable alternative to full-on government intervention while still providing meaningful access to services.

### Administrative Approach

This section will first discuss the pros and cons of Engler's context based approach and further elaborate on a method with which to pursue the concept. Additionally, I will focus on a few additional actors, the National Coalition for the Right to Civil Counsel (NCRCC) and the American Bar Association (ABA), within the legal advocacy arena that have emerged as leaders in promoting the Civil Gideon.

#### *Revisiting the context based approach*

Threatening to add to the workload of court administrators could add an additional push in favor of Civil Gideon or alternative routes to improve access to civil counsel. While the status quo seems to assume that self-help centers are sufficient, evidence shows funding for self-help centers is decreasing despite the increased number of unrepresented litigants due to the poor economic climate- when self-help centers are needed the most (NCCRC, 2012).

In order to build a strong argument to present to court insiders, Engler determined that it's important to better understand "which programs are simply relieving pressure on the regular power players in the system, and which are actually stemming the forfeiture of rights." (Engler, 2006, p.707). This evidence is necessary in order to substantiate the claim that court administrators remain the only group who should shoulder the burden of protecting the rights of the indigent civil litigant.

However, within the context of a mobilized social movement, such as the Domestic Violence Movement, it seems that going to the extreme of threatening the interests of court administrators on a personal level may not be necessary. Rather, the social movement works to alter the self-interests of the court towards the focus of institutional legitimacy as a whole. As Engler notes, the court changed its procedures once power players understood that it was not

worth the effort to suppress the call for change to procedures in domestic violence cases any longer Engler, 2006, p.709) In the case of Civil Gideon, if a viable educational campaign could be launched in the frame of injustice, then it seems that the interests of court actors could be changed based on the systems larger moral obligation to society and threat to institutional legitimacy.

*National Coalition for a Civil Right to Counsel (NCCRC)*

Some advocacy groups have formed to work towards holding the legal system accountable to the bridging of the justice gap. One such group, the NCCRC formed in response to the 2006 ABA resolution to create a centralized force responsible for organizing support for Civil Gideon advocates across the country. The coalition provides information sharing, training, networking, coordination, research assistance, and other support for advocates pursuing or considering pursuing a civil right to counsel litigation or legislation. The group is comprised of over one hundred advocates from legal services programs, private law firms, state bar associations, law schools, national strategic centers, and state access to justice commissions representing over 30 states. The group also puts together newsletters to highlight progress being made in various states and to disseminate important information about successful litigation strategies.

*American Bar Association*

The American Bar Association was pivotal actor in facilitating Civil Gideon's newfound momentum with the passage of the resolution in favor of Civil Representation for cases involving basic human need in 2006. In 2010 the ABA published another report providing a progress report detailing developments towards accomplishing the initial resolution's goal of achieving civil representation for all civil cases of basic need (ABA Resolution, 2006, p.a13).

The 2010 resolution noted that progress at this juncture has been insufficient. The resolution goes through a long list of states that took action, many passing state bar resolutions in favor of exploring implementation of Civil Gideon and then ultimately halting progress. Very few states have launched new litigation approach as advocated for by the 2006 resolutions state-by-state approach and only three cities (Boston, New York, and Philadelphia) and the state of California have successfully launched Civil Gideon pilot programs.

Although since the 2010 update the ABA has been relatively inactive on the topic, the early legwork led to proactive responses from many state bar associations. Not surprisingly, the states that reacted the strongest in 2006- Washington, Maryland, California, New York, and Massachusetts- are currently the states that have been the most vigorous in forming committees on the right to civil counsel, continuing with aggressive litigation strategies at the state level, and developing pilot programs.

### **Looking forward: Shaping the future of Civil Gideon**

Debora Stone notes in her book *Policy Paradox* that the rights narrative is not a quick acting “magic wand”, but rather “works by dramatizing power relationships as personal stories, by legitimating political demands, by mobilizing new political alliances, and eventually, transforming social institutions.” (2012, p.325). This insight expresses how no single approach acting on its own will be sufficient to make Civil Gideon a reality and nor should it be expected that substantial change will occur quickly.

Father of the welfare reform movement Edward Sparer noted, “a legal campaign was an organizing tool for a social movement, not the other way around” (Engler, 709). While each method explored in this thesis has its promises and drawbacks, it’s important to understand the integrated nature of politics and how successfully advocating for the right to civil counsel will require a coordinated effort of many actors in order to make successful wide-spread implementation a reality.

While litigation is a powerful tool, legislative bodies can work to thwart significant legal progress. In an interview, Nancy Mintie, founder of the Inner City Law Center of Los Angeles, detailed her experience of how powerful interests can obstruct the efforts of litigators. After winning several large settlements on behalf of the homeless population and residents of Los Angeles’ skid row district, the legal efforts were never sowed as progress halted when state legislatures simply rewrote civil codes to avoid complying with the court’s rulings.

To avoid such a devastating shortcoming, I advocate on behalf of a network-based approach. This approach requires more coordinated and aggressive tactics focused on building support for Civil Gideon through the actors discussed above: litigation, administration, legislation, and to a lesser degree a grass roots approach.

In order to hold legislators accountable to following through in implementation of the law, it is important that both power players within the court system understand and support the benefits that Civil Gideon brings to the courts, and that the public is aware of the threat to justice failing to enact Civil Gideon will have on society. As the movement stands today, the network is relatively weak, consisting of mainly a litigation approach with a promising legislative movement in few states. This points to the issue that the network approach can be the strongest approach when executed successfully, however, it is also the most delicate in its construction because the system ceases to be effective if any single actor fails to do its part.

The roots of this network are already in place. Pilot programs will serve as an important base as they continue to collect data to assert the legitimacy of the Civil Gideon cause, which can further bolster the evidence for the litigation approach and influence the interest of court administrative actors. In terms of advocacy, groups such as the NCRCC and ABA play a role in holding the legal system they operate within accountable and also may serve as a viable political actor from which to launch an educational campaign to increase public consciousness surrounding Civil Gideon.

While this theory as detailed above may only function in an ideal reality, it can still serve as a starting outline for an approach to bridging the justice gap- a disparity that, as poverty rates continue to increase and federal legal aid funding continues to decrease- will only continue to expand. Changes to the legal system arguably take longer than most types of institutional change, however, even the promise of this issue as an agenda item on the political horizon is quickly becoming a necessity.

Perhaps more important than Civil Gideon itself, is the creation of policy that is self sustaining and provides those who cannot afford representation with agency to protect

themselves from further systematic forms of injustice. Stephen Wexler, an advocate for the welfare reform movement, stated “the legal aid lawyer will eventually go or be taken away; he does not have to stay, and the government which gave him can take him back just as it does welfare. He can be another hook on which poor people depend or he can help the poor build something which rests upon themselves- something which cannot be taken away and which will not leave until all of them can leave.” (Smith, 2005, p.12).

Progressive change will require the cooperation of many actors, both inside and outside the court system. Even more important than building the momentum to encourage change, however, will be sustaining the fervor to ensure effective and timely implementation and continuous improvement of the services provided. In a world where many European courts have declared Civil Gideon the status of human right, Gideon’s trumpet must once again sound in the United States.

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**Appendix:**

**APPENDIX A- Measures**

Survey Measures 1

Belief in a Just World

Descriptive Legal Knowledge

Normative Legal Beliefs

Survey Measures 2

Consistent- Bad/Bad

Consistent- Good/Good

Inconsistent- Bad/Good

Inconsistent- Good/Bad

**APPENDIX B- Additional Tables**

Shriver Project Pilot Outcome Data (through 2013)

## APPENDIX A- MEASURES

### Survey 1

#### 1. Belief in a Just World

Distributive:

- I feel that people generally earn rewards and punishments that they get in this world
- People usually receive the outcomes that they deserve
- People generally deserve the things they are accorded
- I feel that people usually receive the outcomes that are due

Procedural:

- People usually use fair procedures when dealing with others
- I feel that people generally use methods that are fair in their evaluations of others
- Regardless of the outcomes they receive, people are generally subjected to fair procedures
- People are generally subjected to processes that are fair

#### 2. Descriptive Legal Knowledge

CIV1: Bill and Sandra are being evicted from their home of 5 years. They are entitled to free legal counsel to represent them in court.

CIV2: A parent has failed to make child support payments and the court is considering terminating his parental rights. The court is not required to appoint him an attorney to represent him in court.

CIV3 Frank has hired an attorney and petitioned for a divorce from his wife Jenny. Jenny does not have enough money to hire an attorney on her own. The court will appoint an attorney for her.

GEN: People who cannot afford a lawyer have the right to a court appointed attorney in civil and criminal cases.

#### 3. Normative Legal Knowledge

CIV1: Bill and Sandra are being evicted from their home of 5 years. They should be entitled to free legal counsel to represent them in court.

CIV2: A parent has failed to make child support payments and the court is considering terminating his parental rights. The court should not be required to appoint him an attorney to represent him in court.

CIV3G: Frank has hired an attorney and petitioned for a divorce from his wife Jenny. Jenny does not have enough money to hire an attorney on her own. The court should appoint an attorney for her.

GEN: People who cannot afford an attorney should have the right to a court appointed attorney in civil and criminal cases.

## Survey 2- Historical Narratives

The correct answers to comprehension questions are highlighted in bold.

Consistent:

Bad/ Bad

### The Watergate Scandal

On June 17, 1972, five men were arrested after breaking into the headquarters of the Democratic National Committee located in the Watergate Hotel in Washington, D.C. The burglars were not ordinary thieves. They carried wiretaps to install on telephones and cameras to photograph documents. Although the incident failed to make the front pages of the major newspapers, it would soon become the most notorious political scandal in American history.

When the burglars were tried in January 1973, James McCord admitted in a letter that members of the Nixon Administration ordered the Watergate break-in. A Senate committee was appointed to investigate, and Nixon succumbed to public pressure and appointed Special Prosecutor Archibald Cox to scrutinize the matter. Complicitous in the cover-up, many high-level White House officials resigned including Nixon's Chief of Staff, and his Adviser on Domestic Affairs. Nixon's own personal counsel, agreed to cooperate with the Senate and testified about Nixon's involvement in the cover-up. In a televised speech, Nixon assured told the American public "I am not a crook."

It seemed like a matter of Nixon's word against Dean's until a low-level aide told the committee that Nixon had been in the practice of taping every conversation held in the Oval Office. Nixon refused to submit the tapes to the committee. When Archibald Cox demanded the surrender of the tapes, Nixon had him fired. The tape transcripts further damaged Nixon and then there was the matter of 17 crucial minutes missing from one of the tapes.

Finally, in *U.S. v. Nixon*, the Supreme Court declared that executive privilege did not apply in this case, and Nixon was ordered to give the evidence to the Congress. By this time, the House Judiciary Committee had already drawn up Articles of Impeachment. On August 8, 1974, Nixon resigned the office, becoming the first President to do so.

Adapted from: <http://www.ushistory.org/us/58a.asp>

1. Nixon was the first president to \_\_\_\_\_.
  - a. Be impeached
  - b. Claim executive privelage
  - c. Resign from office**
2. How many minutes were missing from the Oval Office tapes released by Nixon?
  - a. 23
  - b. 17**
  - c. 5
3. Why did thieves break in to the Watergate Hotel?
  - a. To steal money from the Democratic National Committee
  - b. To frame a political opponent
  - c. To bug the headquarters of the Democratic National Committee**

Good/Good

### **The Women's Suffrage Movement**

As with the Civil War, the seeds of the quest for women's rights were sown in the Declaration of Independence, claiming that "all men are created equal." Sarah Grimke wrote in 1837 that "men *and women* were created equal ... whatever is right for men to do is right for women." That language was mirrored in the Seneca Falls Declaration which demanded women's suffrage for the first time.

The push for the final fight to victory in the women's suffrage movement was conducted by Carrie Chapman Catt. By 1910, most states west of Mississippi had granted full suffrage rights to women. States of the Midwest at least permitted women to vote in Presidential elections, but the Northeast and the South were steadfast in opposition. Catt knew that to ratify a national amendment, the National American Woman Suffrage Association (NAWSA) would have to win a state in each of these key regions. Once cracks were made, the dam would surely burst.

Amid the backdrop of the United States entry into World War I, success finally came. In 1917, New York and Arkansas permitted women to vote, and momentum shifted toward suffrage. NAWSA supported the war effort throughout the ratification process, and the prominent positions women held no doubt resulted in increased support. On August 26, 1920, the Nineteenth Amendment became the supreme law of the land, and the long struggle for voting rights was over.

Adapted from: <http://www.ushistory.org/us/42c.asp>

1. Women were given the right to vote by the \_\_\_\_ Amendment.
  - a. 18<sup>th</sup>
  - b. 19<sup>th</sup>**
  - c. 12<sup>th</sup>
2. What was the purpose of the Seneca Falls Declaration?
  - a. To declare all men are created equal
  - b. To declare that women should have the right to vote**
  - c. To declare women should have the right to equal pay
3. Women's suffrage passed amidst United States Involvement in \_\_\_\_\_.
  - a. The Civil War
  - b. World War I**
  - c. World War II

Inconsistent:

Bad/good

### **The Trail of Tears**

It was the Native American who suffered most from Andrew Jackson's vision of America. Jackson, both as a military leader and as President, pursued a policy of removing Indian tribes from their ancestral lands.

Indian policy caused the President little political trouble because his primary supporters were from the southern and western states and generally favored a plan to remove all the Indian tribes to lands west of the Mississippi River. While Jackson and other politicians put a very positive and favorable spin on Indian removal in their speeches, the removals were in fact often brutal because there was little the Indians could do to defend themselves.

When the government of Georgia refused to recognize their autonomy and threatened to seize their lands, the Cherokees took their case to the U.S. Supreme Court and won a favorable decision. John Marshall's opinion for the Court majority in *Cherokee Nation v. Georgia* was essentially that Georgia had no jurisdiction over the Cherokees and no claim to their lands, but Georgia officials simply ignored the decision and President Jackson refused to enforce it.

Finally, federal troops came to Georgia to remove the tribes forcibly. As early as 1831, the army began to push the Choctaws off their lands to march to Oklahoma. About 20,000 Cherokees were marched westward at gunpoint on the infamous Trail of Tears. Nearly a quarter perished on the way, with the remainder left to seek survival in a completely foreign land.

Adapted from: <http://www.ushistory.org/us/24f.asp>

1. Who supported Jackson's plan to remove the Indian tribes from their lands?
  - a. **Southern and Western land owners**
  - b. The Native American Counsel
  - c. East cost city dwellers
2. Despite the Supreme Court ruling in favor of the Cherokee, why were they eventually forcibly removed?
  - a. The Supreme Court reversed its decision
  - b. **Jackson ignored the ruling and the state of Georgia failed to enforce it**
  - c. The Cherokees were internally divided and eventually gave up the lands
3. How many Cherokees marched to Oklahoma?
  - a. **20,000**
  - b. 1,000
  - c. 12,000

Good/bad

### **Political Bosses and Political Corruption**

To bring order out of the chaos of the nation's cities during the gilded age (1870s-1890s), many political bosses emerged who did not shrink from corrupt deals if they could increase their power bases. The people and institutions the bosses controlled were called the Political Machine.

To maintain power, a boss had to keep his constituents happy. Most political bosses appealed to the newest, most desperate part of the growing populace- the immigrants. Occasionally bosses would provide relief kitchens to receive votes. Individuals who were leaders in local neighborhoods were sometimes rewarded city jobs in return for the loyalty of their constituents. Bosses knew they also had to placate big business, and did so by rewarding them with lucrative contracts for construction of factories or public works. These industries would then pump large sums into keeping the political machine in office. It seemed simple: "You scratch my back and I'll scratch yours."

All the activities mentioned so far seem at least semi-legitimate. The problem was that many political machines broke their own laws to suit their purposes. As contracts were awarded to legal business entities, they were likewise awarded to illegal gambling and prostitution rings. Often profits from these unlawful enterprises lined the pockets of city officials. Public tax money and bribes from the business sector increased the bank accounts of these corrupt leaders. Voter fraud was widespread. Political bosses arranged to have voter lists expanded to include many phony names. Members of the machine would "vote early and often," traveling from polling place to polling place to place illegal votes.

The most notorious political boss of the age was William "Boss" Tweed of New York's Tammany Hall. For twelve years, Tweed ruled New York. He fleeced the public out of millions of taxpayer money, which went into the coffers of Tweed and his associates.

Adapted from: <http://www.ushistory.org/us/38d.asp>

1. Which social group did political bosses appeal to the most?
  - a. Rural families
  - b. Upper class business people
  - c. The urban immigrant class**
2. Political Machines and Political bosses encourages all of the following except...
  - a. Voter fraud
  - b. Bribery
  - c. Welfare**
3. According to the text, who was the most notorious political machine of the gilded era?
  - a. Boss Tweed**
  - b. Richard Daley
  - c. Lord Bryce

Neutral

### **The Invention of the Automobile**

Perhaps no invention affected American everyday life in the 20th century more than the automobile. Although the technology for the automobile existed in the 19th century, it took Henry Ford to make the useful gadget accessible to the American public. Ford used the idea of the assembly line for automobile manufacturing.

Ford reduced options, even stating that the public could choose whatever color car they wanted - so long as it was black. The Model T sold for \$490 in 1914, about one quarter the cost of the previous decade. By 1920, there were over 8 million registrations. The 1920s saw tremendous growth in automobile ownership, with the number of registered drivers almost tripling to 23 million by the end of the decade.

Americans experienced traffic jams for the first time, as well as traffic accidents. Despite the drawbacks, Americans loved their cars. As more and more were purchased, drivers saw their worlds grow much larger.

Adapted from: <http://www.ushistory.org/us/46a.asp>

1. The Model T was produced by \_\_\_\_\_.
  - a. Chevrolet
  - b. Ford**
  - c. Cadillac
2. What color could consumers purchase the Model T?
  - a. Red, White, or Blue
  - b. Grey or White
  - c. Black**
3. How many drivers were on the road by the end of the 1920s?
  - a. 8 million
  - b. 12 million
  - c. 23 million**

APPENDIX B- ADDITIONAL TABLES

Table #: Shriver Pilot Programs annual funding, number of litigants served in comparison to goal number served set forth in initial application, and key innovations of each center as proposed in initial grant applications

	<b>County</b>	<b>Annual Funding</b>	<b>Goal # of persons served</b>	<b>Actual # of persons served</b>	<b>Key Innovations</b>
<b>Housing Pilot</b>	Los Angeles County	\$2.8 million	2,000 full scope	2,000+ full scope	-Shriver Corps -On-Site Eviction Center -EAC Clerk
	San Diego	\$1.9 million	4,500 limited and full scope	770 full scope	-Early Settlement Program -Telephone referral system
	Sacramento County	\$1.1 million	1,300 limited and full scope	700 limited and full scope	-Mediation Clinic -Electronic filing options
	Kern County	\$560,000	N/A	1,100 full and limited scope	-Social Worker -On-site Eviction Center
	Santa Barbara	\$465,000	N/A	N/A	On-Site Eviction Center -Mandatory Settlement Conference Program
	Yolo County	\$336,000	300 limited and full scope	300- served less full scope ad more limited	-Environmental Health Specialist -On-site Eviction Center
<b>Child Custody Pilot</b>	Los Angeles	\$850,000	450 full scope	~230	-Domestic Violence Focus -Specialized Court Calendar
	San Diego	\$450,000	120-180 full scope	Below expected	-Fast track mediation plan -Court Clinics
	San Francisco	\$350,000	100 full scope, 350 limited scope	Below expected	-On-site Assistance Center
<b>Probate Guardianship Pilot</b>	Santa Barbara County	\$483,000	N/A	N/A	-Translation services -Access project