

Prospectus
Equal Justice Under Law: A Rapid Learning System
by Lloyd S. Etheredge ¹

- Goal:** A world with equal justice under law
- Proposal:** A rapid learning system that develops, integrates, and applies relevant knowledge to achieve this goal as quickly as possible
- Design:** To begin, one or more locations will design learning systems for equal justice under law, adapted to local priorities. The systems will perform five tasks, learning and continuing until the goal is achieved:

- 1.) Organize stakeholders and identify priorities
- 2.) Create metrics
- 3.) Understand causes
- 4.) Design interventions
- 5.) Interpret results and activate a new learning cycle

Discussion:

Task 1: Organize stakeholders and identify priorities

- A.) Broad consultation. A planning group will consult broadly with stakeholders to identify priorities and design an institutional and financing mechanism to manage the project. In America, there has been a long-term decline in accountability journalism at state and local levels. A planning group should reach-out to all groups that still may suffer discrimination or injustice, even if the problems seem to have disappeared or remain invisible.²
- B.) Performance of government. The performance of government is fundamental to equal justice under law: the creation of laws to move societies toward this goal, and metrics to monitor and improve the performance of judicial, law enforcement, and regulatory functions of government will be part of the agenda. The effectiveness of laws to change societies (e.g., to end discrimination) needs to be monitored. Thoughtful leaders will be needed.³
- C.) Critical public concerns and thresholds. Priorities might include high-visibility public concerns and critical thresholds when there are serious injuries to health and well-being that require monitoring (e.g., police line-of-duty killing on unarmed civilians, by race; the quality and adequacy of health and safety inspections). And assuring rights (like voting rights) that are fundamental to accountability and the democratic process.
- D.) Priorities for system-level reform? Where appropriate, priorities might be to improve an ecosystem of justice rather than individual components. For example: Several related parts of the justice system may be so backlogged or expensive that they are less effective than they could be or be difficult to improve in isolation. (Or there may be cultural problems: <http://equaljusticeunderlaw.org> identifies concerns about militarized police forces and, in some jurisdictions, violent home invasions; money bail, debt imprisonment, and private probation practices, etc.)

Task 2: Create Metrics

- A.) Invisible Problems. Metrics can bring “invisible” problems to public awareness. (For example: the public or the legislative branch may be unaware of how much discrimination against different groups still exists.) Good metrics for “invisible” problems can help to secure rights for vulnerable and dependent populations. (For example: institutionalized populations or people with impaired abilities and resources to defend their rights. Also: The retiring U. S. Secretary of Education, Arne Duncan, spoke with tears about the annual death rate of kids in America due to gun violence. These rates and the reality and fears of physical violence experienced by kids in public schools – i.e., inside buildings controlled by government – might be priority metrics.)^{4 5}
- B.) Comparison between jurisdictions. Metrics can compare whether perpetrators of different types of crimes are caught and prosecuted, and penalized equally or unequally for similar violations, across political jurisdictions. Do governments allocate resources to keep the rates of different kinds of crimes, in different jurisdictions, “within bounds” in a way that compromises the right to public safety in different neighborhoods?
- C.) Measuring actual outcomes. Metrics should measure actual results rather than activities or expenditures. The amount of money being spent to solve a problem can be misleading: American systems are capable of spending twice as much per capita (for example, for health care or K-12 education) without getting better results than in other countries.
- D.) Expert and non-quantitative evaluations. Some metrics might be expert assessments. (For example, the performance of public defenders might be sampled and audited by the legal profession to determine whether improvements are possible, without necessarily quantifying the results or seeking to reduce the evaluation to single numbers.)
- E.) The justice of laws. The possible injustice of taxes and expenditures can be obscured by creating invisible “tax code” expenditures to benefit some groups (e.g., subsidies to owners of professional sports teams) while others (e.g., the poor or middle class) must have their benefits appropriated each year. Perhaps an “equal justice under law” budget and public reporting system for both “tax code” and appropriation expenditures would be an interesting innovation?

Task 3 and Task 4: Understand Causes; Design Interventions

- A.) Community-based learning networks. America’s federalist system creates a vast laboratory of policies and experiments that can deepen our understanding of equal justice under law and how causes and trends are being shaped by governments and societal forces. Best Practices, including innovative use of new technologies, can be compared across jurisdictions for clues about shortfalls and remedies (for example: via National Governors Association or www.apqc.com databases).
- B.) Forecasting. Different geographic locations and policy areas will have different rates of improvement. Some metrics may be on-track; other areas may be stagnant or deteriorating: forecasts can inform judgments about where to allocate new resources.
- C.) Many options for improvement. Often, there are many ways to improve system-level outcomes. For example: 1.) In some cities, civic leaders can meet periodically to discuss problems and how they can be solved; 2.) Sometimes, additional funding might improve results; 3.) Quiet

discussions and goal-setting (sometimes backed by the threat of additional government regulation) may improve performance of institutions like nursing homes; 4.) Better public-sector management, informed by the new Baldrige Award and Best Practice systems, might work. 5.) In some areas (like child welfare or health care for Medicaid or vulnerable elderly citizens with cognitive impairments) better coordination across different agencies may achieve better results; 6.) Public accountability journalism can improve performance; 7.) A lack of civic motivation, or conflicting interests, may require activist organizing and the political process. Also 8.) Interesting and very sophisticated tools for cultural change – not yet discussed widely in public – have been evolving to promote gay marriage, legalization of marijuana, and other human rights and civil liberty agendas.

Task 5: Interpret Results and Activate a New Learning Cycle

- A.) The rapid learning system will need a professional staff with strong leadership.
- B.) A formal (or informal) Board of Directors should meet periodically and be responsible for the learning and consultation processes.

DRAFT 3/26/2016

¹ Project Director, Policy Sciences Center Inc., a public foundation created in New Haven, CT in 1948 by Harold Lasswell, Myres McDougal, and George Dession. URL: <http://www.policyscience.net>; 301-365-5241; lloyd.etheredge@policyscience.net (email). My appreciation to Lasswell, McDougal and Lynn Etheredge for help to develop these ideas. Comments welcome.

² Paul Farhi, “Charting the Years-Long Decline of Local News Reporting.” *The Washington Post*, March 26, 2014.

³ The legal profession might contribute leadership. Professional journalists and owners of television, print, and online media also might want to participate in a system that builds their capacity to inform their readers.

⁴ “Arne Duncan Makes Emotional Appeal to End Gun Violence,” *US News and World Report*, December 30, 2014. Online. More than 16,000 American young people were killed by guns during his first six years in Washington.

⁵ Periodic system audits like Branden Garrett’s *Convicting the Innocent: Where Criminal Prosecutions Go Wrong* (Cambridge, MA; Harvard University Press, 2012 reprint) could be informative.