# Designing for Legal Services

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What is design thinking?

Design thinking is a process of combining design concepts and organization knowledge to create empathetic, customer-oriented, value-defining solutions to organization needs. Through design thinking, individuals can identify business opportunities in the mysteries of the marketplace and capture those opportunities by developing a heuristic to solve the problem, refining the solution to an algorithm, and continually improving the process to achieve code/automation. Design thinking opens doors of opportunity for the American judicial system, which continually is faced with large caseloads, crippling budget cuts, and inadequate technology. To demonstrate the potential of design thinking in the court system, this paper applies the design process to a common obstacle courts face: the inefficiency of defendant's failing to appear for court proceedings.

The Design Process

Empathize

One of the key value propositions of design thinking is developing a customer-oriented solution. In order to develop and maintain a customer-oriented perspective, designers must be able to empathize with their customers. For instance, if you are the manager of a fast food restaurant that specializes in hamburgers, you must understand the steps a customer goes through from deciding they need a hamburger to eating the last bite. Legal professionals must be cognizant of the context that legal problems arise out of and develop innovative ways to help their clients solve more than just the immediate legal need.
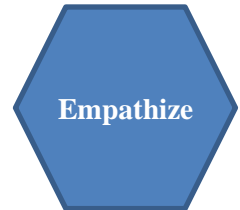
For the courts, empathy is about being aware of how an individual came to be involved in the court process and what impacts the process has on the individual and their business or families during the proceedings and afterwards. For instance, if a criminal defendant feels like the court system is treating him unfairly, that defendant is less likely to cooperate with the process and more likely to fail to appear for court proceedings. Understanding these feelings provides court personnel with important insight for designing efficient and effective processes.

Observe

In order to truly understand the customer's perspective, a designer must put themselves in the shoes of the customer. The fast food restaurant manager must be a drive-thru customer from time to time and spend time in the dining room observing and engaging with customers. By spending time on the 'shop floor' in the midst of the action, a designer develops a better understanding of the current state of the user experience. This understanding lays an important foundation for innovating to improve the experience, and recognize mysteries.

To truly understand the judicial process, you must take the time to observe the entire process, from the initial criminal offense to the final resolution of the file. Observing the process of the criminal arraignment and pretrial process sheds light on inefficiencies in the process that hinder access to justice. Observation will allow court staff to

understand the process better and identify reasons why that criminal defendant feels like he or she was treated unfairly and chose to not appear for court.

Define
After taking a step back to empathize with the customer and observe the current state of the shop floor, it is time for a designer to narrow the scope to focus on defining a problem. For the fast food restaurant it may be too long of drive-thru wait times. For an attorney, it could be inefficient use of time waiting for a pretrial meeting or traveling to an off-site location. Defining a problem is not always an easy task because often problems are masked by many layers of symptoms.
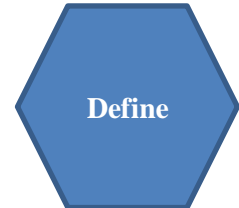
Define

To create an efficient judicial process, problems must be identified and defined within the entire process. Failing to appear for court is a symptom of a deeper problem in the court process. The define step of the design process is meant to dig through the sea of symptoms to identify the true problem at the root of the symptoms. For instance, why do defendants feel they are unfairly treated? Is there something about the court appointed attorney process that makes a defendant feel unfairly treated to the point that they fail to appear for court proceedings? By defining the root causes of the symptoms, a designer develops the understanding necessary to brainstorm potential solutions.

Ideate
Once a problem is identified and defined, a designer begins the ideation phase of the design process. Ideation is about brainstorming and generating ideas for potential solution to the defined problem. For the fast food restaurant with long drive-thru wait times, ideas might include advanced ordering, mobile orders, more staff, improving kitchen processes, etc. In this phase, the designer should keep an open mind to explore as many potential solutions as possible without filtering ideas out.

Ideate
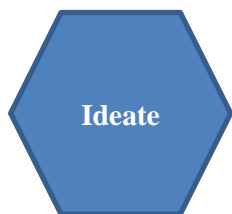
If the problem identified for defendants failing to appear for court proceedings was that defendants who fail to appear typically do not have adequate counsel, design stakeholders would need to begin brainstorming ways to address this problem. One solution could be to look at the appointment process to see if these defendants were receiving court appointed attorneys. Another solution could be changing the timing of when court appointed attorneys meet their clients for the first time. Another approach could be working on building better relationships with the attorneys or allowing defendants to select their own attorneys. Once all of the ideas are on the table, the design team can narrow them down to determine which ideas are the best to proceed with.

Prototype
The next step is to take some of the ideas generated and create prototypes. Developing a prototype, a preliminary model of what the solution would look like, helps designers envision the end result and develop an idea into a workable solution. If the fast food restaurant had decided they wanted to pursue the idea of a mobile ordering app, a designer might draw out pictures of what the various screens would look like in the app. The idea here is to start to visual the idea and flesh out the necessary details to develop a workable sample.

Prototyping solutions in the failure to appear example could involve mapping out the new attorney appointment process and reviewing it with court appointed counsel. By developing a map of the way the new process would work, the design team may recognize additional areas to improve the idea or places that may create friction. Role playing the attorney appointment process could also be a useful tool for this step. Prototyping the idea will provide the design team with insight as to whether the idea will work and how to effectively execute a test.

Prototype

Test

The next step is to test your idea and prototype with a potential customer. Here, you take your prototype and give to the customer to explore while you step back and observe. The restaurant manager is going to find someone who would potentially use the mobile app to order their food and see what their reactions are as they view and play with the prototype. What does the individual like or dislike about the prototype? What functions of the prototype work for the customer? What functions do not work for the customer? Through the testing process, the designer gains feedback that is vital to continuously improving the design process.

Test

To test the failure to appear process, the design team would select two sets of cases where failures to appear are likely. One set acts as a control to measure the failures to appear under the old system, and the other set will be used to test the new process. Data is collected from each set and then compared to see if the new process adequately addresses the problem.

Iterate

If the tested process works, the new process may be ready for implementation. If it does not, then it is time to go back to the drawing board. Using the feedback gained from the testing phase, the design process loops back to the beginning and the designer uses his or her knew knowledge to reevaluate empathy, continue observation, improve the definition of the problem, generate more ideas, and refine and test new and improved prototypes. The design process is a continuous improvement process that should never end. As one new solution is implemented the design team should be reevaluating the current state and designing goals for the future through the feedback loops of the design process.

Iterate

Measuring the value of design thinking
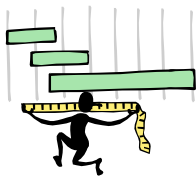
Design thinking is an extremely powerful strategic tool, but its true power cannot be realized without a way to measure the design process. In order to measure the effectiveness of design, data must be collected before taking on a design initiative, during the design process, and after implementation. Data collected before embarking on a design journey will provide a benchmark for measuring change. Data collected during design and after implementation can then be measured against this benchmark to evaluate the impact and effectiveness of the design process.

For example, the fast food restaurant would want to have a measurement of drive-thru wait times from before they began the design process and a measurement of drive-thru wait times after implementing their mobile app to determine the effectiveness of the design solution. The restaurant managers would also want to measure revenue and expenses to determine their return on the investment. Similarly, the court addressing the failure to appear problem will want to have data on some of the symptoms they believe are related to the true problem, such as the number of failures to appear, from a benchmark period before they began designing. The court will then need to keep accurate data throughout design, testing, and implementation in order to determine if the court's goals are being met.

Tools of design thinking

There are many tools of design thinking, ranging from common business planning tools such as Porters Five Forces to more design geared tools like role playing. The purpose of design tools is to facilitate the innovative design process through exploration, creation, reflection, and implementation. The following are some tools that are useful for legal professionals as they work to design and improve legal services.

Shadowing

Shadowing is an exploration tool useful in the empathy and observation phases of design. Through shadowing, a designer immerses himself or herself in the user experience of the customer and the staff in order to develop an understanding of what these individuals do and why they do it. Shadowing is often documented through observer notes, audio or video recordings, or photographs. A design thinker builds a more comprehensive understanding of the business process and business needs through spending time on the 'shop floor' shadowing than he or she would if he or she read a report or transcript of interviews conducted by another researcher which capture only a limited purview of the overall experience.

The manager of the fast food restaurant would find it useful to shadow a customer through their drive-thru experience or the employee working the drive-thru window in order to better understand and relate to the user experience. When looking to improve the court process for criminal defendants, shadowing a defendant from the time he or she is arrested or walks in the door for an arraignment proceeding through the pretrial and trial process is very informative for developing empathy. In both examples, shadowing is a useful way to gather information and lay a foundation for brainstorming ways to improve the process.

Customer Journey Maps

Process mapping is an extremely useful tool at all steps of the design process because it guides users to explore, create, reflect, and implement through a visual and thought provoking tool. When designing for service industries like legal, designers often use customer journey maps that sketch out all of the customer's interactions through the service experience. When individuals sit down to create a map, they often realize that the consumer journey they thought was streamlined (right) is really a confusing maze of customer touchpoints (left). By mapping the journey, a designer can visualize the process, match data and customer feedback to process steps, identify waste, and conceptualize opportunities for improvement.
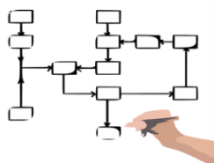
The fast food restaurant might map the process of ordering your food from the point you pull into the drive-thru lane to the point you drive away while munching on your french fries. A criminal court design team might map the process from arraignment to sentencing. Additional maps can be generated throughout the design process to represent individual sub-processes, the current state, potential prototypes, and ideal future states. Process maps are an important communication tool that allows stakeholders to understand and discuss the process, problem areas, and opportunities for improvement.

The 5 Whys
The 5 Whys is an exploration tool where the design team asks a series of why questions that encourage the team to dive deeper to understand and define a mystery. To use this tool, someone poses a question of why problem A exists. The team works to develop a list of reasons for why problem A exists and then works to narrow the list down to the most convincing explanation, say explanation B. The team then asks "Why B?" and develops another list of explanation.
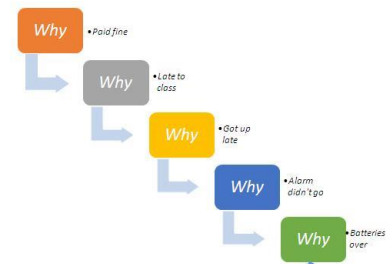
The fast food restaurant might begin with a question such as "Why are customers complaining about slow drive-thru service?" The criminal court might begin with the question: "Why are defendants failing to appear for pretrial meetings?" This process of asking why, developing potential explanations, and then diving deeper into the most convincing explanation continues until the root cause of the problems is uncovered from amidst all of the symptoms of the problem. The 5 Whys tool is useful for understanding and empathizing and for problem defining because it forces you to continue to explore and dig deeper.

Implementing Design
Engaging in design thinking can be a daunting task for professionals not accustomed to creative processes. The process driven climate of the court system may not seem ideal for creative thinking, but design is vital in the judicial system because resources are scarce and must be used effectively and creatively in order to achieve optimal results. Implementing design thinking in the courts is not particularly challenging, but it may take some shifting of perspectives to make this worthwhile investment work. Here are some tips on how to begin creating a culture of design:

First: We're all in this together.
Design thinking requires bringing individuals from all areas of the court together, from the chief judge to the newest clerk, to build a strong team. A cross organizational team will have the benefits of the broad perspective of top officials and the deep customer-centric perspective of front-line staff. This allows the team to develop customer-focused and achievable solutions.

Second: Get down and dirty.
Designing requires hands-on exploration to understand the customer. Spend time observing in the waiting area of the court, sit in the clerk's office and watch interactions with various parties and attorneys, and shadow attorneys in their work when possible. Surveying

court users may also be an effective tool to gain perspectives you cannot obtain from observation. Understanding how to empathize with and relate to your customer base is priceless and the best way to build this understanding is through firsthand experience.

Third: Draw the world around you.
Designing requires putting aside the urge to be professional 24-7. Designers must let down their guard, pick up a crayon, and draw the world around them. It does not have to be perfect and do not be afraid to have some fun in the process. What does the court process look like to you? Drawing will help build team spirit and facilitate ideation.

Finally: Try, try, and try again.
Design thinking is a continuous improvement tool. The design process should not be confined to a monthly 'design meeting' or abandoned if it does not produce workable results within a set time period. Design thinking is a process that never ends; it is a cultural paradigm that should define your organizational mission. As new court processes are designed, design teams should always be working to continually improve them.

Future of design thinking in legal services
Design thinking has tremendous potential to improve court effectiveness and efficiency. The picture on the right details some of the many levels of design thinking applications. Two areas within the judicial process in particular jump out as ripe opportunities for applying design because of the increasing need and budget constraints.
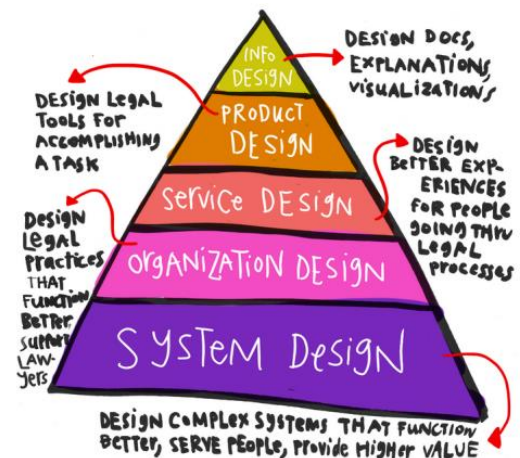
Inefficient Criminal Trial Process
Anyone who has ever been called upon to serve on a jury, received a speeding ticket, or been arrested will tell you that the American criminal court system is a confusing, inefficient, and daunting process to navigate. Though we have a constitutional right to a speedy trial, most trials are not speedy. Design thinking can be used to develop systems and tools to reduce the amount of time defendants spend waiting for court proceedings, improve the pretrial and plea bargaining process, and streamline communication with jurors about upcoming trials. Many tools are being developed and tested in these areas but most current tools are not adequate for the needs of local court systems because they are being developed by outside commercial entities. Design thinking can help develop better systems and tools by bringing together all of the stakeholders within the court system to explore, create, test, and implement.

Access to Justice
Every day, individuals across the U.S. and around the world face civil legal issues that they do not do anything about because they do not have the resources available to seek legal help. Design thinking can be used to develop ways to make the civil court system more approachable for individuals. Many courts have developed forms for various court proceedings, but many more opportunities exist for courts to design ways to embrace technology and other customer-centric means of solving civil disputes.