



Examples of State Access to Justice Commissions: Creation, Structure and Accomplishments

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The Access to Justice (ATJ) Commissions described below represent a sample from diverse states across the country. All have been in existence long enough to have significant accomplishments to their credit. While other parties played a role in some of these accomplishments — particularly state legislative funding — it is unlikely that these successes would have come about without the leadership role of the state's ATJ Commission and the bench-bar engagement that it fostered.

Washington Access to Justice Board

Creation

Beginning in the 1980s, reports by the Washington State Bar Association (WSBA) documented growing civil legal needs and identified access to justice as a top priority. In 1992-1993, a WSBA Access to Justice Task Force proposed the creation of the ATJ Board as a solution to the lack of continuity, coordination and organization in the delivery of existing services. In response to a petition by the WSBA, the Washington State Supreme Court established the ATJ Board in 1994, by Court order for a two-year evaluation period. The Court reauthorized the ATJ Board in 1996, for an additional five years and made it permanent in 2000.

Structure

Nine members, nominated by the WSBA and appointed by the Supreme Court and the WSBA. Chair is elected by the Board for a two-year term. Board reports annually to the Supreme Court.

Staffing

Washington State Bar Association.

Most Distinctive Characteristic

Emphasis on unified vision, values and a sense of community. The ATJ Board has sought to build and coordinate a state justice community — the Washington

State Alliance for Equal Justice — whose work is based on a unifying vision and values. Membership in the Alliance binds all providers in the state under a common banner and establishes expectations for coordination, messaging and communications. The Alliance also serves as a “brand” for the Access to Justice message. The ATJ Board hosts an Access to Justice Conference each year, in conjunction with the Washington State Bar Leaders, which has become a key event in the state's bar and bench culture. The Conference generates recommendations, which are used to guide the ATJ Board and others in the work of the Alliance.

Selected Accomplishments

- The design, organization and support of a non-duplicative, integrated, efficient and effective legal aid delivery system. The ATJ Board is currently implementing its third state plan, which is focusing on improving rural delivery and upgrading *pro bono* coordination and support.
- Significantly increased state funding for civil legal aid, including major increases in 2005, from \$6.6 to \$8.1 million, following the release of the state's Civil Legal Needs Study, and 2007, from \$8,600,000 to \$11,235,000.
- Unification of statewide private legal aid fundraising efforts under a single umbrella through the Campaign for Equal Justice, managed by the LAW (Legal Aid for Washington) Fund.
- Through technology planning, unification of the case management system in the state; coordinated web content among all justice system members; and a set of Access to Justice Technology Principles, which has been adopted by the Supreme Court.
- Coordination with, and integration into, the Judicial Branch, with the establishment in 2006, of the Office of Civil Legal Aid (OCLA) as a separate and independent agency within the judicial branch, to administer state funds for civil legal aid.

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- A current initiative to institutionalize leadership development and succession in the state.
- Successful research and development of initiatives to promote and expand access to the justice system for low and moderate income people. Examples include: Council on Public Legal Education; Uniform Courthouse Facilitator Rule; rules on Unbundled Legal Services; standards adopted by the Board of Governors regarding fee for service telephone provider legal aid services; development of a pilot project for low fee services (GAAP); amendments to CR 23 (*cy pres*); publication of a Guide for Courts to Assist People with Disabilities and development of a rule for increased access (GR 33); and development of Access to Justice Technology Principles.

More information: www.wsba.org/atj

Maine Justice Action Group

Creation

In 1990, a blue-ribbon Commission on Legal Needs, chaired by former Senator Edmund Muskie, conducted a civil legal needs study and laid out a series of recommendations for improving access to justice for low-income people. In 1995, with federally funded legal aid facing elimination, a highly respected federal judge and then Chief Justice, building on the groundwork laid by the “Muskie Commission,” convened representatives of bar-related organizations as the Justice Action Group (JAG) to respond to the crisis. Since then, the JAG has continued to provide leadership, coordination and planning for efforts to expand access to civil justice in Maine.

Structure

The JAG operates as a coalition, with members from the legislature, the state and federal judiciary, the executive branch, the Maine State Bar Association, the Maine Bar Foundation, the Maine Trial Lawyers Association, and the boards of legal services providers. Membership is currently being expanded to include leaders from the business and communications sectors, a consumer of legal services, and additional bar and judicial representatives. Executive directors of legal aid programs form the Advisory Committee of Providers, whose chair sits on the JAG Executive Committee.

Staffing

Part-time executive coordinator works directly for the JAG, funded by grants from the Maine Bar Foundation, Maine State Bar Association, and occasional grants from the judiciary and foundations for particular purposes. (Position currently being redefined.)

Most Distinctive Characteristic

The level of judicial leadership and involvement. For the first twelve years of its existence, the JAG was chaired by a federal judge, with a state Supreme Court Justice as Vice-Chair. The new Chair is a state Supreme Court Justice. The Chief Justice is a member and attends each meeting.

Selected Accomplishments

- 1996, creation of Maine Equal Justice Partners, a new non-LSC-funded provider to provide systemic advocacy.
- 1997, dedication of a portion of civil filing fees and fines to civil legal services.
- Gradual change in IOLTA from voluntary to opt out to comprehensive and finally to mandatory with comparability.
- 2004, creation of Campaign for Justice, combined private bar campaign that ranks second in the nation in per-attorney giving.
- 2005, increase in filing fee and fine surcharge for legal aid.
- 2005, development of plan for access to the courts by people with limited English proficiency, being used to guide court efforts.
- 2006-2008, broad-based planning process for justice system as it relates to low-income people and others facing barriers, resulting in far-reaching recommendations; currently beginning implementation phase.

More information: www.mbf.org/justice.htm

Texas Access to Justice Commission

Creation

Following a Texas Supreme Court hearing in 2000, on the status of access to civil justice in the state, and a resolution passed by the State Bar of Texas urging creation of a state Commission, the Court unanimously created the Texas Access to Justice Commission in 2001.

Structure

Seventeen members (ten appointed by Supreme

Court, seven appointed by State Bar), plus three *ex-officio*. Members are appointed in various capacities: Supreme Court justice, judges from large and smaller counties, member of Texas Access to Justice Foundation Board of Directors, representative of legal aid providers, member of State Bar Board of Directors, attorneys and at-large members. Appointments are coordinated to ensure broad diversity. Governor, House and Senate appoint *ex-officio* members. Members serve three-year terms and are limited to two successive terms. Reports twice annually to Supreme Court and State Bar.

Staffing

Texas State Bar, with support from Texas Access to Justice Foundation staff.

Most Distinctive Characteristic

Committees that involve corporate counsel, communications and information technology professionals.

Selected Accomplishments

- 2001, \$2.5 million annually from the Attorney General's budget allocated to legal services for victims of crime.
- 2003, opt-out contribution benefiting legal aid on the State Bar of Texas dues statement.
- 2003, new *pro hac vice* fee of \$250 per case for out of state lawyers, with fees going to civil legal aid.
- 2003, new mandatory fee of \$65 each year added to State Bar dues, with half allocated to civil legal services and half to indigent criminal defense projects.
- 2006, adoption of IOLTA comparable rate rule.
- 2007, enactment of legislation providing for state court judicial review of agency decisions in Medicaid and food stamp cases.
- 2007, removal of the sunset provision from the \$65 mandatory legal services fee enacted in 2003.
- 2007, allocation to legal services from funds for victims of sexual assaults generated by new fee on sexually-oriented businesses.

More information: www.texasatj.org

Colorado Access to Justice Commission

Creation

Bar leaders had been deeply involved in Colorado's state planning process in the late 1990s. In 2002, bar and legal services leaders obtained the support of the Colorado Bar Association and the Colorado Supreme Court for the creation of the Colorado Access to Justice

Different Models

- The South Carolina Access to Justice Commission and the North Carolina Equal Access to Justice Commissions are chaired by their states' Chief Justices, with a bar leader as Vice Chair.
- New Hampshire's Access to Justice Commission has over forty members. It is chaired by a Federal judge, with a state Supreme Court Justice as Vice-Chair.
- In some states, a broad Access to Justice function is vested in an entity other than a commission. Some of these have a formal relationship with the state Supreme Court, e.g. a State Bar committee with a formal liaison from the Supreme Court or a staffed program with a Board of Directors appointed by the Supreme Court, the State Bar, and other stakeholder entities.

Commission, which held its organizational meeting in January 2003.

Structure

The Commission is an independent entity created and operating according to its by-laws. It has twenty members (ten appointed by Bar Association, four by Supreme Court, one each by Colorado Legal Services, IOLTA, Legal Aid Foundation, Governor, Senate, House of Representatives). A Supreme Court Justice serves as a member.

Staffing

Colorado Bar Association.

Most Distinctive Characteristic

A structure of local District Court-based Access to Justice Committees organized under the auspices of the Commission (*see article p. 37*).

Selected Accomplishments

- Expanded *pro bono* participation and support for self-represented litigants through clinics, advice panels and self-help materials by local *pro bono* committees.
- 2006, model *pro bono* policy for Colorado lawyers and law firms appended to Rule of Professional Conduct 6.1.
- 2006, law firm *pro bono* recognition program developed by Supreme Court and Colorado Bar.
- 2007, series of ten hearings on access to justice

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around the state, with a final hearing at the Supreme Court in Denver.

- 2008, report based on the hearings submitted to the Legislature, Colorado Supreme Court, Governor's Office, and Colorado Bar Association Board of Governors.

More information: www.cobar.org/index.cfm/ID/20129/DPWAJ/Access-to-Justice-Commission/ (or follow link from www.ATJsupport.org)

New Mexico Access to Justice Commission

Creation

After a history of support for legal aid and involvement in state planning issues dating back to the mid-1990s, the New Mexico State Bar obtained state Supreme Court support for the creation of an Access to Justice Commission in 2004, when a new Chief Justice who had once been a legal services attorney took office (see article p. 13).

Structure

Eighteen members (ten appointed by Supreme Court, three by State Bar, one each by the Governor, House of Representatives, Senate and law school. Bar leader and Supreme Court Justice serve as Co-Chairs. Reports annually to Supreme Court.

Staffing

No dedicated staffing to date; administrative and professional support from Administrative Office of the Courts and New Mexico State Bar. In 2008, funding was obtained for staffing for the Commission through the Administrative Office of the Courts; this staff member will have substantial responsibilities for self-represented litigant issues.

Most Distinctive Characteristic

Supreme Court adoption of Commission plans for *pro bono*, *pro se*, and delivery of legal services. The Commission oversees their implementation on behalf of the Court.

Selected Accomplishments

- 2006, Supreme Court adoption of 10-Point *Pro Bono* Plan, including development of *pro bono* committees in six district courts; plans to expand

Documents Available On-Line

Court orders creating state ATJ Commissions are posted at www.ATJsupport.org — go to "Documents and Resources" and click on "State Access to Justice Commissions: structure and creation" under "State Access to Justice Commissions/Models and Materials (from NLADA Resource Library)."

pro bono service currently underway in each of the six districts.

- 2007, Supreme Court adoption of new State Plan for Delivery of Legal Services (see p. 39).
- 2007, Supreme Court adoption of report and recommendations on self-represented litigants.
- 2007, new \$2.5 million appropriation for civil legal aid.

Mississippi Access to Justice Commission

Creation

In 2002, the Mississippi Bar Delivery of Legal Services Committee and the Mississippi Supreme Court convened the state's first-ever Access to Justice Summit, which initiated a broad-based planning process. A catalyzing event was the participation of Supreme Court Justice Jess Dickinson in the 2004 Equal Justice Conference and National Meeting of State Access to Justice Chairs. Justice Dickinson became the Supreme Court's liaison and a strong leader on Access to Justice issues. At a Deep South Regional Access to Justice Meeting convened in August 2004, by the Access to Justice Support Project, state leaders decided to advocate creation of an Access to Justice Commission. The proposal was endorsed by the State Bar in late 2004, and the Commission was created by the Supreme Court in 2006.

Structure

Twenty-three members appointed by Supreme Court. Although representative of key institutions, members are appointed by name. Reports annually to Supreme Court and State Bar.

Staffing

Pending. Some consultant staffing for specific initiatives. Administrative and professional support from Administrative Office of the Courts. A grant request has been submitted to IOLTA for a part-time staff person.

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process that is perceived as exclusive or closed will be worth the extra effort involved.

LESSON TWELVE: Partners should place a priority on promoting cooperation and consensus within their own community and strive to speak with one voice in public.

Disputes, lack of adequate communication, and failures of cooperation within partner communities can seriously damage Access to Justice efforts. Leaders must work within their own communities to avoid the negative consequences that can flow from such circumstances. In particular, diverse providers should place a priority on promoting cooperation and consensus. While debate and dissent may be inevitable — even helpful — within a community, turf, jealousy and unnecessary competition will divert energy and undermine the cause. Leaders should try to keep the “big picture” of Access to Justice as a whole front and center at all times. In their public statements, they should strive to speak with one voice.

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good and vital work of their state’s *pro bono* programs and attorneys.

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- 2 See *Documenting the Justice Gap in America: A Report of the Legal Services Corporation*, September 2005, at www.lsc.gov/JusticeGap.pdf.
- 3 For more information concerning ABA Model Rule of Professional Conduct 6.1, including its state-by-state application, see www.abanet.org/legalservices/probono/rule61.html.

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Most Distinctive Characteristic

Commission membership including not only two Supreme Court justices, a federal judge, and other representatives of courts, bar, law schools, providers, and state and local government, but leaders from business, communications, churches, civil rights and economic development organizations.

*Selected Accomplishments*²

- 2003, new *pro hac vice* fee benefiting legal aid.
 - 2005, adoption of mandatory *pro bono*/contribution reporting rule.
 - 2006, filing fee surcharge benefiting legal aid.
 - 2007, adoption of IOLTA rule changing from opt-out to mandatory with comparable rate requirement.
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 - 2 While some of these successes precede the formal creation of the Access to Justice Commission, they grew out of the Supreme Court and State Bar engagement that was at that time leading up to the creation of the Commission.

- 4 Florida, Hawaii, Illinois, Maryland, Mississippi and Nevada have adopted mandatory *pro bono* reporting rules. For an overview of state *pro bono* reporting requirements, see www.abanet.org/legalservices/probono/reporting.html.
- 5 For further information concerning the jurisdictions that have adopted emeritus rules, see www.abanet.org/legalservices/probono/emeritus.html.
- 6 State-by-state information about such rules can be found at www.abanet.org/legalservices/probono/clerules.html
- 7 For further information, see www.abanet.org/cpr/jclr/home.html.
- 8 For commentary on Model Rule 3.7(B), see www.abanet.org/judiciaethics/approved_MCJC.html.