

Action Plan for Justice



A Report of
The California Commission on Access to Justice

April 2007

California Commission on Access to Justice

Hon. Steven Austin

Co-Chair

*Superior Court of California, Contra Costa County
Martinez*

Kathryn Eppright

Co-Chair

*Andre Morris & Buttery
San Luis Obispo*

Mary Lavery Flynn

Director, Legal Services Outreach

Office of Legal Services,

Access & Fairness Programs

State Bar of California

San Francisco

Cristina Llop

Consultant and Editor

San Francisco

For more information, contact:

Chris Zupanovich

Program Coordinator

Office of Legal Services,

Access & Fairness Programs

State Bar of California

180 Howard Street

San Francisco, California

chris.zupanovich@calbar.ca.gov

Available at www.calbar.ca.gov

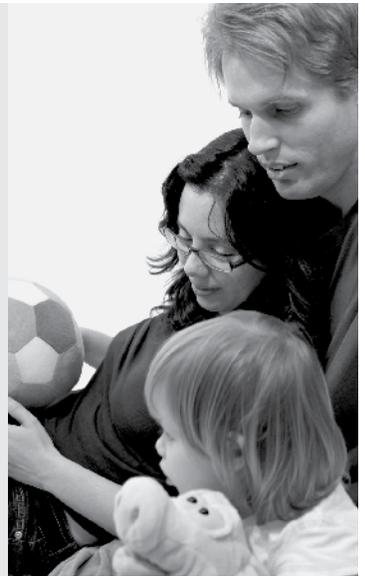
Action Plan for Justice

A Report of
The California Commission on Access to Justice

This Action Plan was developed at the request of Assembly Judiciary Committee Chair Dave Jones, and includes information and recommendations intended to assist all key institutions with responsibilities for ensuring a just and equitable judicial system in California – the Judicial Council, the Supreme Court, the State Bar, the Legislature itself, and other key statewide entities.

There were many organizations actively involved in the compilation of this Action Plan. The final product is a result of a significant statewide collaborative effort involving the Legal Aid Association of California (LAAC), the Public Interest Clearinghouse, the Judicial Council’s Task Force on Self-Represented Litigants, the State Bar’s Standing Committee on Delivery of Legal Services (SCDLS) and the State Bar’s Legal Services Trust Fund Commission, as well as participants at the annual Legal Services Stakeholders Conference, held at the Administrative Office of the Courts in May of 2006.

To these institutions and individuals, we owe a tremendous debt of gratitude.



Action Plan for Justice

A Report of
The California Commission
on Access to Justice

Table of Contents

4	Chart of Recommendations
6	Executive Summary

14	PART I
	Assessing California’s Progress Toward a Comprehensive and Coordinated System of Access to Civil Justice
18	Principle A: Provide Meaningful Access to Justice for Low-Income and Vulnerable Populations
20	Principle B: Provide a Continuum of Services in all Forums
22	Principle C: Establish Innovative and Responsive Delivery Systems, Cultivating Leaders of Tomorrow
23	Principle D: Ensure Stable and Adequate Resources
25	Principle E: Provide Fully Accessible Services throughout the State
26	Principle F: Conduct Client-Centered Planning
27	Principle G: Establish Expansive Partnerships to Ensure Leadership and Increase Resources
28	Principle H: Coordinate Local, Regional and Statewide Planning and Evaluation
29	Conclusion to Part I

30	PART II
	Recommendations: Action Plan for Justice
32	Legal Services Funding and Additional Resources
47	Increasing and Supporting Pro Bono
	Improving Delivery of Legal Services to the Poor
55	Increasing Resources in Rural Areas
59	Preventing Fraud by Organizations Claiming to be “Legal Aid”
61	Technology
65	Assistance for Self-Represented Litigants
70	Expanding Language Access
75	Improving Services to Modest-Means Clients
79	Conclusion to Part II

	APPENDICES
80	California Commission on Access to Justice, 2007 (1)
81	Roster of Action Plan Working Group and Advisory Panel Members (2)
82	California Core Principles (3)
83	ABA Principles of a State System for the Delivery of Civil Legal Aid (4)
86	List of Recent Reports on Access Issues (5)
88	ABA Model Rule 6.1 (6)
88	ABA Model Rule 6.5 (7)
89	Recent Developments in Expanding Pro Bono Resources (8)
89	Judicial Council Resolution on Pro Bono (9)
90	Organizations Working to Support and Coordinate the Statewide System of Delivering Legal Aid (10)

Tables and Charts

- 31 Comparison of California with Other States Civil Legal Services for the Poor Government Spending per Eligible Poor Person- FY 2005 (1)
- 32 Number of Legal Aid Attorneys Compared with Total Attorney Population (2)
- 32 Number of Eligible Clients per Legal Aid Lawyer in 2005 (3)
- 33 Revenue of Recipients of Legal Services Trust Fund Program in Percentages & in Dollars (4)
- 34 Decrease in Core Legal Services Funding 1993 to 2005 (adjusted for inflation) (5)
- 34 Decrease in IOLTA Funding – 1993 to 2005 (6)
- 35 Total Revenue of Recipients of Legal Services Trust Fund Program from 1993 to 2005 (7)
- 35 Funding for Legal Services in California (2005) (8)
- 36 2005 California “Unable to Serve” Data for LSC Programs (9)
- 42 Loan Repayment Assistance Programs (10)

California Commission on Access to Justice Appointing Entities

Governor of the State of California

California Attorney General

President Pro Tem of the Senate

Speaker of the Assembly

Judicial Council of California

California Judges Association

State Bar of California

California Chamber of Commerce

California Council of Churches

California Labor Federation

California League of Women Voters

Consumer Attorneys of California

Council of California County Law Librarians

Action Plan for Justice

A Report of The California Commission on Access to Justice

Chart of Recommendations

A. Funding/Additional Resources

1. Increase state funding for legal services through the Equal Access Fund.
2. Pursue comparability proposals to increase the yield on IOLTA Accounts.
3. Fund local pilot projects to provide a continuum of service, including full representation, for high priority needs.
4. Continue efforts to seek sufficient state funding to implement the loan repayment assistance programs (LRAP) for public interest attorneys.
5. Pursue strategies to create formal structure to use Cy Pres funds to support legal services statewide.
6. Promote statewide funding for the delivery of legal services to seniors, including consideration of the recommendations of the AB 830 Task Force.
7. Pursue increase in financial contributions by attorneys to legal aid programs and facilitate the collection and dissemination of those funds as appropriate.

B. Pro Bono

8. Increase statewide support for local and regional efforts to encourage more pro bono.
9. Develop ongoing judicial support for pro bono.
10. The Supreme Court, the State Bar and local bar associations should pursue the goals of ABA Model Rule 6.1 that strongly encourage attorneys to engage in pro bono work as well as to contribute to legal services programs.
11. Adopt ABA Model Rule 6.5 to facilitate attorney participation in advice and counsel clinics.

C. Improving Delivery of Legal Services to the Poor

Improving Delivery of Legal Services to the Poor – Rural issues

12. Establish minimum access guidelines to be used as baseline for funding considerations.
13. Prioritize funding of the loan repayment assistance and scholarship programs to expand the number of lawyers in rural areas.

Improving Delivery of Legal Services to the Poor – Fraudulent legal aid

14. Consider legislation to regulate the use of the term "Legal Aid."

Improving Delivery of Legal Services to the Poor – Technology

15. Strengthen the statewide technology infrastructure to facilitate broader and more effective development of new delivery mechanisms.
16. Ensure that LawHelpCalifornia.org and other websites are treated as a core component of the state's legal services delivery system.
17. Support the expansion of the use of hotlines as an effective way to route client calls to the appropriate local legal services provider.

D. Self-Represented Litigants

18. Ensure staffed self-help centers are available in every county.
19. Pursue stable and adequate funding for self-help services.
20. Pursue strategies to remove unnecessary barriers to access for self-represented litigants.

E. Language Access

21. Guarantee qualified interpreter services in civil proceedings.
22. Develop policies and procedures to improve language access.
23. Reevaluate the system for recruitment, training, compensation and certification of court interpreters.
24. Evaluate the role of lawyers, bar associations, legal services programs, law schools and law libraries.

F. Modest Means

25. Evaluate and develop best practices for innovative delivery methods such as sliding fees and co-pays.
 26. Expand and support programs and services designed to encourage and assist private lawyers to serve modest means clients.
 27. Support organizations directly providing services to modest means individuals.
-



To maintain the strength of our state and our nation, we must ensure that we have a court system with integrity – one that is fair and objective, that hears and resolves disputes in a timely fashion, that is open and truly accessible to all, and finally that is worthy of the respect and confidence of the public we strive to serve

*Hon. Ronald M. George, Chief Justice,
California Supreme Court*

EXECUTIVE SUMMARY

Action Plan for Justice

A Report of The California Commission on Access to Justice

No principle is more essential to a well-functioning democratic society than equal access to justice. True access to justice ensures the long-term preservation of our core constitutional and common law values and fosters respect for the rule of law by all segments of society. Yet universal access remains an alluring and elusive goal rather than contemporary reality. While the law increasingly permeates every aspect of our lives, not all members of society yet enjoy full access to the institutions in which the law is administered, interpreted, applied and enforced. This Action Plan is designed to help make that access a reality: to advance incrementally from a sound, principled but sometimes remote system of justice to a better one – more accessible, more effective and, ultimately, more just.

This Action Plan was developed by The California Commission on the Access to Justice at the request of Assemblymember Dave Jones, Chair of the Assembly Judiciary Committee. It contains recommendations for each of the institutions with a key role in ensuring an effective and equitable legal system – the legislature, the courts, the State Bar, the Legal Aid Association of California, law schools, and the Access to Justice Commission itself.

In the last decade, the Access to Justice Commission has successfully partnered with the Judicial Council, under the visionary leadership of California Chief Justice Ronald M. George, as well as with the State Bar, the legal services community, concerned policymakers, self-help centers, law libraries and myriad other legal, judicial, and public entities in a unified effort to achieve equal justice. This collaboration has been central to the many successes described in the report, and has resulted in the development of California's strong infrastructure underlying the delivery of legal services.

While some recommendations in this report can be implemented immediately others are longer-term and will take extensive coordination between key stakeholders and a significant commitment to make them a reality. Given the number and scope of the recommendations, the Access Commission recognizes the need to establish priorities for their development and implementation.

Breaking the cycle of violence

Cathy is a mother of two and a domestic violence survivor. When she went to legal aid she had been suffering from three years of beatings from an abusive husband and felt frightened and overwhelmed. The legal aid advocate helped her find safe housing and develop a safety plan, arranged for evaluation for one of the children who showed signs of autism, and got support services for the family. Meanwhile, represented by the legal aid attorney, she won sole custody of her children, secured child and spousal support and obtained \$9,000 in housing funds. Cathy and her children have now moved to permanent housing, the children are continuing with their counseling and treatment plans, and Cathy plans to return to school to become a pharmacist.

These Recommendations address all components of the legal services delivery system as well as relevant components of the justice system, guided by a set of Core Principles that are described in Part I. These Core Principles lay the foundation for the recommendations that follow in Part II, which are designed as part of a comprehensive plan that addresses all major barriers to access to justice.

Central to those principles is establishing and maintaining in each of our communities a full continuum of civil legal services that takes into account cultural and linguistic as well as economic factors. These include:

- legal education and prevention;
- brief advice and assistance, and self-help services;
- legal representation where needed, both to defend and assert legal rights;
- administrative, legislative and policy advocacy;
- community economic development; and
- representation of community organizations to enable them to fulfill their potential.

A great deal of progress has been made in the last several years to enhance equal access to justice for the poor, disadvantaged or otherwise marginalized members of our society, but much remains to be done to provide true access to justice in California.

California's legal needs

California has by far the largest low-income population of any state. Since 1980, California's population has increased 40 percent while the number of Californians in poverty has increased by 60 percent.

Poverty affects vulnerable populations and women disproportionately. One of every five children in our state is poor. An even higher percentage of children live in poverty in Latino and African American communities. Poverty has also increasingly become a reality for working families, with 26 percent of California workers earning poverty-level wages.

Similarly, for those Californians living just above the poverty line even basic needs are beyond their reach. In 2000, approximately 7.5 million Californians had incomes higher than the maximum eligibility limit for federally funded legal aid and yet their incomes were lower than the state's median income.

Growing income inequalities, the failure of wages to keep up with inflation, the escalating cost of housing, and the widening income divide between the rich and poor, keeps many basic necessities beyond the reach of many in our state, even the middle class. The result is that the majority of Californians do not have the resources to obtain legal representation for the myriad legal problems affecting them every year, such as divorce, child support, child custody, domestic violence, loss of housing and employment, and discrimination.

In addition to economic barriers, other, less obvious, factors hinder access to the courts – cultural and linguistic impediments, lack of education, unfamiliarity with the court system, distrust of authority and feelings of social alienation. While the lack of access to justice is not discrete from other socio-economic problems faced by these populations, it often compounds other difficulties and increases the

sense of isolation and disempowerment. Effectively overcoming these barriers, together with addressing other structural and economic obstacles, requires a multi-faceted approach that employs a range of legal, support, education, advocacy and outreach services.

The Justice Gap

As explained in the Commission on Access to Justice’s 2002 study “The Path to Equal Justice,” there continues to be a substantial “justice gap” between the total funding needed to truly meet the legal needs of California’s poor and the total amount of resources available for civil legal services. The gap was estimated in that report as being \$384.4 million as of 2000 (or \$434.4 million in 2005 dollars) with the California delivery system able to address approximately 28 percent of the legal needs of the poor.

As of 2005, with resources increased to \$198,005,509, the updated “justice gap” figure is \$394.1 million – the gap between total resources available and what it would take to truly meet the legal needs of California’s low-income community.

While California has made some important gains in terms of overall resources, legal aid programs are still not able to provide even a minimal level of legal advice and assistance for 67 percent of the legal needs of California’s poor. Even for the one third of the legal need that is being addressed, it is often through brief services and advice, rather than with the full representation that low-income Californians often need and deserve.

The Continuum of Services

Communities must have a continuum of services – a comprehensive, integrated system for the provision of legal services. The components of this continuum currently include:

- **Legal Representation and Related Services.** Legal services advocates and pro bono attorneys provide legal representation across the state to thousands of families facing critical legal problems. They also serve low-income clients by providing legislative advocacy, pursuing impact litigation, and conducting extensive community education.
- **Self-Help Centers.** Court-based self-help centers assist over half a million self-represented litigants navigate the court system, help the courts be more effective, and provide referrals to litigants for legal representation where appropriate.
- **Limited-Scope Legal Assistance.** The availability of limited-scope legal assistance has allowed many low and moderate-income people to access the courts by allowing individuals to have legal representation in crucial parts of their case.
- **Court/Legal Services Collaborations.** Collaborations and partnerships between courts and local legal services programs, bar associations and county law libraries have allowed for the expansion of self-help assistance.
- **County Law Libraries.** County law libraries are often the only access point to legal information resources for people whose needs may not fall within eligibility requirements for legal services and self-help centers, or who are unable to obtain representation.



Overview of Core Principles

These Core Principles provide a useful framework to examine the current state of California’s legal services delivery system and lay the foundation for recommendations to propose a comprehensive plan to address all aspects of the continuum of delivery of services.

[These Principles are based on California’s Vision and “Core Principles for Development of a Comprehensive integrated System for the Provision of Legal Services” (“Core Principles”) developed by the Legal Services Coordinating Committee in 2001, together with the “Principles of a State System for the Delivery of Civil Legal Aid” (“ABA Principles”), adopted by the ABA in August 2006.]

Principle A. Provide Meaningful Access to Justice for Low Income and Vulnerable Populations.

Access to justice is a fundamental right, and achieving true access includes the provision of legal services to the low-income and vulnerable populations in the state. While California has seen a number of successful innovations in the delivery of legal services, the funding of legal services for the poor in the state has remained woefully inadequate, and California lags far behind other states in funding legal services programs. Access is not meaningful when there remain such inadequate resources to meet the need.

Principle B. Provide a Continuum of Services in all Forums.

A continuum of services is required to develop a comprehensive, integrated system for the provision of legal services. The components of the continuum include: legal representation and related services, self-help centers, the effective use of technology, limited-scope legal assistance, court and legal services collaborations, and county law libraries. Although these components have been strengthened and expanded in the last 10 years, much work remains to be done, especially in the critical area of legal representation.

Principle C. Establish Innovative and Responsive Delivery Systems, Cultivating the Leaders of Tomorrow.

Innovative delivery systems must be developed in response to the needs of the client community and informed by the particular needs of underserved clients, in a manner that is effective and cost efficient, while designed to be evaluated and replicated where appropriate. Any responsive delivery system must take into account the diversity of the clients served; legal services attorneys and program leadership should reflect this diversity.

Principle D. Ensure Stable and Adequate Resources.

All parts of the legal services delivery system must receive adequate funding to provide meaningful access for people without the financial resources to afford legal help.

Principle E. Provide Fully Accessible Services throughout the State.

A legal services delivery system should make legal services fully accessible and uniformly available throughout the state, particularly in rural areas, to limited-English speakers, and to other particularly vulnerable groups.

Principle F. Conduct Client-Centered Planning.

Legal aid programs engage in significant efforts to reach out to their clients to obtain their input in setting priorities for their provision of services. The judicial branch has similarly focused on the needs of court users by commissioning, in 2005, the report “Trust and Confidence in the California Courts: A Survey of the Public and Attorneys.”

Principle G. Establish Expansive Partnerships to Ensure Leadership and Increase Resources.

The system of delivery of legal services should be composed of partnerships between legal aid providers, community-based organizations, the judiciary and the courts, the private sector, all branches of government, and other stakeholders. Over the past nine years, the Access Commission, the Judicial Council, the State Bar, the legal services community, policymakers, self-help centers, law libraries and other key allies have partnered successfully to help create a strong infrastructure to support and coordinate the delivery of legal services in California.

Principle H. Coordinate Local, Regional, and Statewide Planning and Evaluate Components of the Delivery System.

The delivery system should engage in coordination of regional and statewide planning, and include the oversight and evaluation of all of the components of the system for the delivery of legal services.



At root, equal justice is simply the notion that law and the courts should be fair, even if life isn't.

Hon. Earl Johnson, Jr., Associate Justice, California Court of Appeal, Second Appellate District; Speech at Opening Ceremony, National Equal Justice Library, quoted in 17 Saint Louis University Law Review 265 (1998).

Recommendations: Action Plan for Justice

These recommendations are divided into a number of areas where challenges must be faced and overcome to provide effective access to justice.

Legal Services Funding and Additional Resources

[Recommendations 1 through 7]

To come closer to our goal of providing stable, adequate funding, uniformly available throughout the state we need to: increase state funding for legal services through the Equal Access Fund; pursue comparability proposals to increase the yield on IOLTA accounts; fund local pilot projects to provide a continuum of service, including full representation for high priority legal needs; continue efforts to provide sufficient funding to implement the Loan Repayment Assistance Program for public interest attorneys; and pursue increased financial contributions by attorneys to legal aid programs.

Increasing and Supporting Pro Bono

[Recommendations 8 through 11]

To increase the depth and breadth of pro bono involvement, we should: increase statewide support for local and regional efforts to encourage more pro bono; develop ongoing judicial support for pro bono; establish the principles of ABA Model Rule 6.1 to encourage attorneys to do pro bono work; and adopt ABA Model Rule 6.5 to facilitate attorney participation in advice and counsel clinics.

Increasing Resources in Rural Areas

[Recommendations 12 and 13]

Although no area of the state has enough resources to fully serve all who need legal services, rural communities are particularly stretched for resources. To increase resources in rural areas we should: establish minimum access guidelines to be used as baseline for funding considerations and prioritize funding of Loan Repayment Assistance Program to encourage lawyers to practice in rural areas.

Preventing Fraud by Organizations Claiming to be “Legal Aid”

[Recommendation 14]

Too many unscrupulous people use a name containing the term “legal aid” to mislead consumers and commit fraud on our state’s most vulnerable populations. To curb these abuses, the legislature should regulate use of the term “legal aid” in a manner similar to the regulation of the terms “paralegal” and “immigration consultant.”

Technology

[Recommendations 15 through 17]

To ensure that sufficient resources are allocated to the application of technology to the delivery of legal services, we should: strengthen the statewide technology infrastructure to facilitate broader and more effective development of new delivery mechanisms; ensure that existing websites such as LawHelpCalifornia are treated as a core component of the state’s legal delivery system; and design and implement a statewide hotline to route client calls to the appropriate legal services providers.



Assistance for Self-Represented Litigants [Recommendations 18 through 20]

Self-help services are a key component of the continuum of legal services, and as such, we should prioritize: stable and adequate funding for self-help services, staffed self-help centers available in every county, and the pursuit of strategies for removing unnecessary barriers to access for self-represented litigants.

Expanding Language Access [Recommendations 21 through 24]

Barriers to access to justice associated with language difficulties pose a significant threat to the judicial system. With 20 percent of California's population unable to speak English at the minimum level necessary for meaningful participation in a judicial proceeding, we should: guarantee the right to qualified interpreter services in civil proceedings; develop policies and procedures to improve language access; reevaluate the system for recruitment, training, compensation and certification of court interpreters; and evaluate the role of lawyers, bar associations, legal services programs, law schools and law libraries.

Improving Services to Modest-Means Clients [Recommendations 25 through 27]

Modest-means Californians are often unable to meaningfully access our justice system, finding legal representation to be out of their financial reach while being ineligible for assistance from existing legal service providers. To provide true access to justice, our delivery system should develop, evaluate and expand best practices for innovative delivery methods: sliding fees and co-pays; programs and services designed to assist private lawyers to serve modest-means clients, including expansion of limited scope legal assistance; and support organizations directly providing services to modest-means individuals.

Conclusion to Executive Summary

California is a national leader in innovative approaches to providing access to justice to its residents. Over the last 10 years, much has been accomplished by our legal services community. This progress is due, in great part, to the collaborative efforts of legal aid providers, local courts, the Judicial Council, the State Bar, the Access Commission, county law libraries, and many others.

However, the growth in the number of poor Californians and the decrease in the availability of basic civil legal services make the promise of equal access to justice an illusory one for far too many. Implementation of the important recommendations in this Action Plan will move California toward its mandate: achieving true access to justice for all Californians.



About 100 years ago this year, Roscoe Pound gave his notable lecture on “Public Dissatisfaction with the Administration of Justice.” One hundred years later, we’re still struggling with issues of public dissatisfaction. Part of the dissatisfaction expressed then was the inability of people of low and modest incomes in having access to courts and to legal help. I think we still have those problems. We haven’t solved them although California has made a real effort here to provide access to people to help them help themselves. And that has been impressive. It has become a model in our country.

*Hon. Sandra Day O’Connor, U. S. Supreme Court (Retired)
Summit of Judicial Leaders, San Francisco, November 3, 2006*

PART I

Assessing California's Progress Toward a Comprehensive and Coordinated System of Access to Civil Justice

INTRODUCTION

Imagine that it is 10 a.m. on a typical Monday morning:

- An attorney from a legal aid office in Oakland is meeting with a client, providing her with brief advice and explaining her options to seek protection from abuse by her husband.
- A pro bono attorney, under the direction of a Los Angeles legal aid office, is representing a client in an unlawful detainer case, in which the landlord is trying to evict a single mother and her three children without following the rent ordinance requirements.
- A legal services attorney is appearing at a hearing in Sacramento at the request of a legislator to explain the details of proposed legislation to strengthen lead poisoning prevention laws to protect children in poverty.
- A legal aid attorney in Butte is appearing in court to request a child support order for an indigent client and her children.
- An attorney with the Superior Court leads a custody and visitation workshop at a courthouse in Fresno.
- A disability rights attorney from Riverside represents a disabled client before an administrative law judge on his appeal of denial of social security disability benefits.
- A legal aid attorney in Southern Kern County is conducting a community education presentation regarding its health project with migrant farm workers.

These examples reflect the range of civil legal services provided to low-income Californians. They comprise a continuum of legal services essential to a comprehensive integrated system for provision of legal services. No principle is more essential to a well-functioning democratic society than equal access to justice. And true access to justice requires that every community have access to this continuum of legal services. A full continuum of services includes: legal education and prevention; brief advice and assistance; self-help services; representation where needed, both to defend and bring affirmative actions; administrative, legislative and policy advocacy; community economic development; and representation of community

organizations. It is essential that these services are both culturally and linguistically appropriate for the client community.

Every day, legal services programs and self-help centers throughout California provide every one of these services along the continuum. However, the reach of these services is far from universal due to the limited resources of legal services providers along the continuum. The need for civil legal assistance far exceeds the current level of resources available.

As a result, while the law increasingly permeates every aspect of our lives, not all members of society yet enjoy full access to the institution in which the law is administered, interpreted, applied and enforced. Thousands of Californians who cannot obtain legal services are prevented from having meaningful access to justice, and, consequently, too often lose their homes, their possessions, their livelihoods, even their dignity.

Overview of Low-Income Californians Needing Legal Assistance

California has the largest low-income population of any state. In 2005, the number of Californians in poverty using the federal measure of poverty¹ was 4.8 million, over a million more than Texas, the state with the second largest number of people living in poverty. Since 1980, California's population has increased 40 percent while the number of Californians in poverty has increased by 60 percent.

Poverty disproportionately affects women and other vulnerable populations such as immigrants, seniors and the disabled. Most troubling is that poverty rates are highest among young children under age ten. One of every five children in our state is poor. The poverty rates for Latino and African-American children are even higher, 27 percent and 29 percent respectively. And, poverty has also increasingly become a reality for working families, with 26 percent of California workers earning poverty-level wages.

As dramatic as these poverty rates for California are, they unfortunately do not capture the true state of California's poor. While federal poverty thresholds have remained relatively static, the cost of living in California has risen. As a result, federal poverty rates do not come close to reflecting a person's actual economic ability to meet essential needs. When adjusted to reflect the high cost of living, not only is our poverty rate, and thus the number of poor Californians, considerably higher, but the growth in the number of poor is faster than in the rest of the nation.

For those living just above the poverty line, the situation is similarly bleak. The high cost of living in California has caused many to find even basic needs beyond their reach. In 2000, approximately 7.5 million Californians had incomes higher than the top of the eligibility limit for federally funded legal aid and yet, if faced with a legal problem, they would be unable to afford even basic levels of legal assistance from an attorney. Since then, there has been a significant increase in the number of people who find themselves in this category.

The rapid growth in the number of poor and near-poor Californians can be attributed to the growth in income inequality. Poverty rates and income studies show that, over the last three decades, the gap between the rich and poor has grown in California faster than in the rest of the country. Also affecting the underestimation of California poverty rates is the fact that, as noted above, there is a significant

1. In 2005, the U.S. Census Bureau Poverty Threshold was \$19,971 for a family of four.

number of low-income families who have family members with jobs. Federal poverty measurements do not take into account the costs associated with working, such as childcare and transportation, which are also higher in California than in the rest of the country.

Modest-means people are also detrimentally affected by the high cost of living in California. Wages have not kept up with inflation and the inflated prices of homes. With the widening income divide between the rich and poor, the result is that many basic needs are beyond the reach of the residents of our state, even for the middle class. Individuals in this income group generally do not qualify for legal aid or pro bono assistance, and most would face severe economic hardship if confronted with a significant legal problem.

In addition to economic barriers, other, less obvious, factors hinder access to the courts – cultural and linguistic impediments, lack of education, unfamiliarity with the court system, distrust of authority and feelings of social alienation. While the lack of access to justice is not discrete from other socio-economic problems faced by these populations, it often compounds other difficulties and increases the sense of isolation and disempowerment. Effectively overcoming these barriers, together with addressing other structural and economic obstacles, requires a multi-faceted approach that employs a range of legal, support, education, advocacy and outreach services.

Legal Services Community's Response to the Problem

The recognition of the need for a continuum of service to address the legal needs of all Californians led the Legal Services Coordinating Committee² to develop “California Core Principles for Development of a Comprehensive Integrated System for the Provision of Legal Services” (“Core Principles”) in 2001, attached as Appendix 3. California’s Core Principles demonstrate our state’s leadership in the understanding of the need for a comprehensive system of delivery of legal services.

On August 7, 2006, the ABA House of Delegates also adopted a set of principles called “Principles of a State System for the Delivery of Civil Legal Aid” (“ABA Principles”), at the recommendation of the Task Force on Access to Civil Justice of the American Bar Association. (Attached as Appendix 4.) The ABA Principles “have been developed to provide guidance to state Access to Justice Commissions and similar entities in assessing their state system, planning to expand and improve it, and ensuring ongoing oversight of its development.”³

The ABA Principles closely mirror California’s Core Principles. Together, the ABA and California principles provide a useful framework for this access to justice action plan. The following summary and overview uses the Core Principles, updated with the ABA Principles, to present an account of access to justice in California.

Louis was a decorated paratrooper in the Korean War, injured during his service duty. In 1960, because of the pain from his injuries, he filed a claim with the VA. The VA only granted him a 10% disability rating. Over the following decades, Louis repeatedly tried to get the VA to re-examine his claim, to no avail. After two back surgeries and further claims to the VA, he continued to be denied. By 2000, Louis had to use a walker to get around. He heard about legal aid’s homeless veterans project and talked to a staff member, who obtained his VA record and appealed the denials. In October of 2003, the VA found in Louis’ favor, and he was rated at 100% disabled. He was granted \$68,000 in retroactive payments and more than \$2000 per month in benefits. Louis, who now uses a wheelchair, will use the money to continue a new ministry he’s started.

2. The Legal Services Coordinating Committee provides oversight to the state planning activities of its constituent groups, including the Judicial Council, Access to Justice Commission, the State Bar’s Standing Committee on Delivery of Legal Services and Legal Services Trust Fund Program, the Legal Aid Association of California, Public Interest Clearinghouse, Western Center on Law and Poverty, and the Clients Council.

3. ABA Resolution and Task Force Report at p. 7.

Principle A. Provide Meaningful Access to Justice for Low Income and Vulnerable Populations.⁴

Access to justice is a fundamental right that ensures the long-term preservation of our core constitutional and common law values and fosters respect for the rule of law by all segments of society. Achieving true access includes the provision of legal services to the low-income and vulnerable populations in the state. California has made great strides in the past decade toward this goal. We have been at the forefront of developing and instituting new strategies for the provision of legal services to low and moderate-income people, leading the way for other states in the areas of legal services and court partnerships, self-help centers, addressing barriers to access, encouraging limited-scope representation, and pro bono.

However, universal access remains an elusive goal rather than contemporary reality. Access to justice is not meaningful when there remain such inadequate resources to meet the need. As the recent, unanimously-approved, ABA Resolution⁵ recognizes, states should “provide legal counsel as a matter of right at public expense to low income persons in those categories . . . where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.” Currently in California, this ABA resolution is far from achieved, as the resources available for the delivery of legal services fall short of providing appropriate help for everyone who faces serious legal problems.

Approximately 100 nonprofit organizations are dedicated to providing legal help to low income and vulnerable people in our state. Providers include the eleven legal services programs funded by the federal Legal Services Corporation (LSC) and eighty-six other civil legal services organizations that participate in the State Bar’s Legal Services Trust Fund Program. Many of these programs have pro bono components, through which tens of thousands of private attorneys donate their time to help low-income people.

However, California’s troubling poverty rates, increase in income inequality and issues affecting the growing poor have severe implications for legal services providers. First, federal funding through the Legal Services Corporation (LSC) has decreased; federal appropriations, even when adjusted for inflation, are roughly half of 1980 levels. Consequently, even though they have diversified their funding base, legal services programs can handle only a small fraction of the cases that qualify for assistance.

Second, the majority of legal aid programs receiving LSC funding must make eligibility criteria and decisions on service provision based on federal standards of poverty. When programs are not able to adjust eligibility based on the cost of living and other regional factors, they are unable to provide adequate legal services to a growing number of people.

In its 2002 report “The Path to Equal Justice,”⁶ the Access Commission found that current funding addresses less than 28 percent of the legal needs of California’s poor and lower-income residents as defined by federal poverty thresholds. More recently, the September 2005 LSC Report “Documenting the Justice Gap in America,” found that, on a national level, only 20 percent of the population in need of civil legal assistance actually receives it, and of those who do seek assistance, over half often receive less than they require. The percentages are significantly higher if

4. California Core Principle 1; ABA Principle 1.

5. ABA Resolution 112A, unanimously approved by the ABA House of Delegates on August, 7, 2006.

6. The Path to Equal Justice, A Five-year Status Report on Access to Justice in California, California Commission on Access to Justice (2002) available at <http://calbar.ca.gov/calbar/pdfs/accessjustice/2002-Access-Justice-Report.pdf> (hereinafter The Path to Equal Justice).

The poor and near-poor often experience more urgency in addressing their legal issues, with severe consequences such as loss of housing or loss of a job if they are unable to obtain assistance.

we consider the above-mentioned failure of federal measurements to capture the true numbers of low-income Californians. Complicating efforts to meet the legal needs of our state is its unique ethnic and language diversity — as of 2005, 40 percent of all Californians speak a language other than English at home.

Although the problem of inadequate access to legal services is not limited to low income communities, the poor and near-poor often experience more urgency in addressing their legal issues, with severe consequences such as loss of housing or loss of a job if they are unable to obtain assistance. In addition, the poor and near poor are less likely to have the educational levels and skills necessary to handle legal problems without any assistance. Some of the vulnerable groups that need particular attention are children, homeless people, migrant workers, immigrants, Native Americans, persons with disabilities, older persons with social or economic need, non-citizens, institutionalized persons and incarcerated persons. Many of these vulnerable groups recognized in the ABA Principles are served in California by legal aid and pro bono programs. However, all of these efforts are under-funded and understaffed, compared to the levels necessary to achieve full access to justice.

Moderate-income people are also unable to fully participate in the legal system. The ABA Comprehensive Civil Legal Needs Study in 1994 showed that the legal needs of moderate-income people are similar to those of poor people, and that moderate-income people are also similarly vulnerable, with many finding themselves an illness or a divorce away from falling into poverty.

Full representation by an attorney continues to be beyond the reach of many, and arguably, even further beyond reach than in 1994, as the cost of living and legal fees have continued to increase disproportionately to any increase in incomes. The free legal services offered to this population are very limited, often restricted to programs of representation for domestic violence victims or seniors, on-line self-help guides, or brief advice and counsel through law school clinics or programs that use volunteer attorneys.

As California Chief Justice Ronald M. George said on August 8, 2003 when addressing national bar presidents and bar executives at the ABA's National Conference of Bar Foundations,

... the availability of affordable legal assistance even for the middle class is often an illusion, and access to legal assistance for those at the bottom of the economic ladder too frequently is viewed as a luxury totally out of reach. As a result, individuals facing crises that may affect everything from their ability to earn a livelihood to their right to care for their children find themselves required to navigate a legal system that largely is designed for and by specialists in the field — lawyers and judges — or even worse, to stand outside the system, ignorant of or intimidated by the first steps they need to take to avail themselves of its services.

The recommendations in Part II of this Action Plan address ways of improving access to justice and narrowing the “justice gap” but the broad scope of this plan does not allow us to address specific obstacles facing each of California’s vulnerable groups in seeking help with legal problems. That subject receives continuing attention from the Access to Justice Commission and the organizations that serve the particular needs of each of these groups.

Communities must have a coordinated continuum of services in order to develop a comprehensive, integrated system for the provision of legal services.

Principle B. Provide a Continuum of Services in all Forums.⁷

As described in the introduction to this Action Plan, communities must have a coordinated continuum of services in order to develop a comprehensive, integrated system for the provision of legal services. In addition to the full range of legal services, community service providers must be strongly connected to serve the broad range of problems faced by persons with legal issues. Many clients have problems that may require not just legal assistance, but help with related concerns such as substance abuse, temporary shelter, childcare, counseling, employment assistance, to name a few. It is critical that service providers develop and maintain systems that provide for effective, appropriate referrals by and between programs, and promote coordination between the various groups, including social services agencies and any other community services that serve the client population. Collaboratives and partnerships allow for a multidisciplinary approach to addressing the needs of the client population that will ultimately offer a broader range of solutions that more holistically address the client's circumstances.

The report that gave rise to the formation of the Access Commission, "And Justice For All, Fulfilling the Promise of Access To Civil Justice in California,"⁸ laid out a vision of such a continuum of service in our state, and the components have been strengthened and significantly expanded in the decade since that report. The components of this continuum include:

- **Legal Representation and Related Services.** Legal services advocates and pro bono attorneys provide legal representation across the state to thousands of families facing domestic violence, education problems, loss of housing and other crises that require legal help in a court, administrative proceedings or other forum. They also serve low-income clients by providing legislative advocacy, pursuing impact litigation, and conducting extensive community education. Legal services support centers provide expert assistance to the dozens of legal services programs focused on the direct delivery of legal assistance to low-income clients. Support centers often co-counsel on cases, train and mentor less experienced advocates, and otherwise serve as partners in the statewide effort to address the critical legal issues facing low-income clients.

While the state's legal services delivery system has expanded services for those who can represent themselves, there are many cases in which individuals cannot gain equal and fair access to justice unless they are represented by an attorney. Several factors can determine when representation by an attorney is needed, such as the complexity of the case and substantive law, procedural rules and requirements, the party's education, literacy level, and English-speaking proficiency, and the individual legal rights at stake in the case. Without the ability to provide legal representation for those who cannot afford it and who have significant rights at stake, a legal services delivery system cannot provide meaningful access to justice.

Chief Justice Ronald M. George has recently acknowledged the critical role of legal representation, urging the establishment of pilot projects to increase representation for those who are unable to afford an attorney but are involved with critical cases affecting their individual rights, such as their housing and their families. Recommendation 3 further discusses how funding for pilot projects can assist in the goal of creating a seamless system of access to the proper level of legal assistance, including full legal representation in particularly crucial civil proceedings.

7. California Core Principle 4; ABA Principle 2.

8. And Justice For All, Fulfilling the Promise of Access To Civil Justice in California, State Bar of California (1996).



- **Self-Help Centers.** California is the national leader in establishing successful court-based self-help centers. These centers assist well over half a million self-represented litigants navigate the court system, help the courts be more effective, and provide referrals to litigants for legal representation where appropriate.
- **Effective Use of Technology.** California legal services programs, working with the Administrative Office of the Courts, continue to build effective technology strategies both statewide and within individual programs. LawHelpCalifornia, the California Court’s Online Self-Help Center, and the legal advocates site of the Legal Aid Association of California (LAAC), are just some of the technological developments that provide invaluable assistance to litigants and to legal aid advocates and pro bono lawyers. These developments improve and expand available services and facilitate effective collaboration between programs.
- **Limited-Scope Legal Assistance.** The Access Commission and the State Bar have worked closely with the Judicial Council to expand the availability of limited-scope legal assistance — also called “unbundling” — resulting in the adoption of court forms and rules to provide greater acceptance and use of limited-scope legal help. Both self-represented litigants and the courts have benefited significantly from the ability of individuals to have legal representation in crucial parts of their case.
- **Court/Legal Services Collaborations.** Many courts have formed collaborations and partnerships with local legal services programs, bar associations and county law libraries to provide or expand on self-help assistance in innovative ways, trying to maximize the number of people they can serve with minimal resources. Significant among these partnerships are those funded through the Equal Access Fund, allowing legal services agencies to staff self-help centers in the courts.
- **County Law Libraries.** California has perhaps the most extensive county law library system in the country. County law libraries play an important role in providing Californians from all backgrounds with resources for their legal issues, and in ensuring their access to justice. They are often the only access point to legal information resources for people whose needs may not fall within eligibility requirements for legal services and self-help centers, or who are unable to obtain representation. In many counties, county law libraries and their librarians often become the last and only option to obtain legal information for self-represented litigants.

As Part II of this Action Plan will detail, there have been a number of significant accomplishments during the past ten years in furthering the vision of an effective continuum of legal services in California. Each section of Part II also includes recommendations for all of the components of the legal services delivery system that will help make this vision a reality.



Principle C. Establish Innovative and Responsive Delivery Systems, Cultivating the Leaders of Tomorrow.⁹

Innovative delivery systems must be developed in response to the needs of the client community. The delivery of services must be effective and cost efficient. As detailed above in the description of the continuum of services, innovative approaches such as limited-scope representation, court partnerships with legal services programs, technology developments and self-help centers must be expanded in a manner that is responsive to the client population and informed by the particular needs of underserved clients.

These innovative systems must be comprehensively evaluated and replicated where appropriate. Further, in order to adequately respond to clients' needs, an effective and comprehensive system of appropriate referrals between programs is essential, as are efforts toward a multi-disciplinary approach to meeting the clients' needs, as discussed above. This referral network must include social services agencies, law libraries, community-based organizations and other services designed to serve the client community.

Any responsive delivery system must take into account the diversity of the clients served, and hire staff that reflect this diversity. Similarly, the system should make it its responsibility to cultivate and develop the future leaders of California's legal system, and ensure the training of leaders whose diversity of background and experience mirror that of the clients they serve. The legal community in general, and law schools in particular, should focus resources on law students and encourage them to serve the poor and otherwise disadvantaged populations through internships and other similar practical opportunities. This would benefit not just the people the law students serve, but the legal profession as a whole as our future lawyers develop a sense of the importance of public service and commitment to their communities.

If California's legal services delivery system is truly going to develop the leaders of tomorrow, however, legal services programs must be able to attract and retain quality attorneys committed to the delivery of services to low-income clients. Unfortunately, legal services programs currently face significant challenges in recruitment and retention of attorneys due to their lack of resources and salaries that cannot compete with other public agencies, let alone with the private sector. Recommendations 4 and 13 in this Action Plan are designed to address these challenges.

9. California Core Principles 5 and 10; ABA Principle 3.

A legal services delivery system should make legal services fully accessible and uniformly available throughout the state, particularly in rural areas, to limited-English speakers, and to other particularly vulnerable groups.

Principle D. Ensure Stable and Adequate Resources.¹⁰

All parts of the legal services delivery system must be adequately funded in order to provide meaningful access for people without the financial resources to afford legal help.

Legal services funding: One of the most significant accomplishments of the past ten years has been the Equal Access Fund, established in FY1999-2000 at the urging of the California Commission on Access to Justice. The Equal Access Fund has provided a crucially important \$10 million annual state appropriation ever since then.

In 2005, the Judicial Council recommended supplementing that appropriation with a portion of civil filing fees that is now bringing in another \$5 million annually. In 2006, the fund was increased by the application of the state appropriation limit (SAL). The SAL adjusts certain state funding to reflect increases in population, inflation, and other factors. For the 2006-2007 fiscal year, the first year of its applicability, the SAL resulted in a 4.96 percent increase in the Equal Access Fund.

Additional funding is expected to result from implementation of AB 2301 (Judiciary), introduced by Assemblymember Dave Jones in 2006 and signed by Governor Schwarzenegger, giving the State Bar the authority to implement a system to encourage attorneys to contribute financially to legal services program and to facilitate these contributions through the annual membership dues collection process. AB 2301 will be further discussed as a recent success in funding of legal aid, and under Recommendation 7 that addresses financial contributions by attorneys to legal services programs.

Based on estimates of the size of the “justice gap,” however, substantially more funding is needed. Recommendation 1 in this Action Plan addresses increases in the Equal Access Fund. Recommendation 2 proposes ways to increase the yield on IOLTA accounts and pursue comparability in returns between those accounts and other interest-bearing accounts. The Legal Services Trust Fund Commission, with the cooperation of financial institutions, has achieved significant increases in the revenues received through IOLTA accounts. However, by expanding the types of accounts permitted for IOLTA use and requiring comparability of net yields on IOLTA accounts, other states have seen significant increases in the yield on IOLTA accounts.

As mentioned above, Recommendation 4 addresses the targeted funding for tuition loan repayment for full-time legal aid lawyers that was authorized in AB 935 (Hertzberg, 2001). As discussed throughout this Action Plan, legal services organizations face many difficulties in recruiting and retaining new law school graduates. Law school graduates face unprecedented amounts of student loan debt upon graduation, often over \$80,000. A recent survey of legal services attorneys under 35 years of age, discussed in more detail below, demonstrates how rising law school tuitions and corresponding increases in educational loan debts have not been met with increases in salaries for public interest attorneys, resulting in a majority of legal aid attorneys reporting the need to leave their legal aid employer to manage their debt. Funding loan repayment programs would be a high-leverage investment in justice for low-income and vulnerable Californians.

Funding for self-represented litigants programs: In 1997, funding was provided to create an Office of the Family Law Facilitator in each of California’s 58 counties, providing legal assistance with child support and paternity to self-

10. California Core Principle 3;
ABA Principle 4.

Access to disability benefits

Howard was disabled because of a visual impairment. He went to the welfare office to obtain public benefits to which he was entitled but was unable to read the small print on the application. After several hours of waiting for help, Howard was told by a worker and her supervisor that they were not allowed to help people fill out forms. Howard contacted legal aid. An attorney specializing in disability law advocated on his behalf for reasonable accommodations under the ADA and assisted him in applying for benefits. In addition to assisting Howard to obtain his much needed Food Stamps and benefits, the attorney's advocacy efforts resulted in the change in policy at the welfare office to make benefits application forms and notices accessible.

represented litigants. Since then, model pilot projects in family law and other civil issues have been funded in a few California counties and some courts have committed resources to supplement many of these programs. In addition, courts and legal services agencies have formed partnerships to meet the needs of self-represented litigants. Particularly notable are the partnerships funded through the Equal Access Fund created by the legislature, and administered by the Judicial Council, to provide \$10 million to IOLTA-eligible legal services programs, 10 percent of which are for partnership projects.

Given the success of these self-help centers, the judicial branch has expanded programs for self-represented litigants by making centers one of the top three priorities for funding in 2006, and has allocated \$8.7 million to allow courts to start or expand self-help centers. The need identified by local courts for ongoing funding for self-help services throughout the state, however, is more than \$44 million. Recommendation 19 in this Action Plan addresses the need for the legislature, executive and judicial branches to work together to secure stable funding for self-help centers.

Pro Bono service by private lawyers: Pro bono service is another resource critical to providing legal assistance to low-income and vulnerable clients. Through the use of successful strategies and lessons learned in pro bono marketing efforts, there should be greater statewide support for local and regional campaigns for pro bono. This support would help local legal services providers and pro bono programs appeal to local lawyers in a wide array of practice settings. There have been important successes in this area described in Appendix 8, but much remains to be done.

Leaders of the legal community, such as bar association leaders, law firm managing partners, and leaders in the broader community, including government, business, religious and other civic leaders, should be encouraged to help deliver the message and theme of such campaigns throughout the legal profession. In addition, more systematic encouragement by the judiciary to perform pro bono and institute pro bono policies would similarly have a positive impact on the amount of pro bono service contributed by lawyers. Recommendations 8 through 11 are aimed at increasing the volume and quality of pro bono service in California.

By adequately funding legal services, self-help efforts, and encouraging the legal profession to commit more resources to serving the poor, our system of delivery of legal services can best maximize resources to more adequately meet the legal needs of the population of our state.

The need for funding of legal services must also be considered in the context of the impact of legislation on the courts and court users. Proposed legislation should include an analysis of its impact beyond the immediate subjects affected, to determine if and how it will affect the legal services delivery system and any collateral resources that may be required. For example, if legislation increasing penalties for narcotics possession is passed, it will presumably result in higher rates of incarceration for those with children. This means that there will be more caregivers who will have to seek legal guardianships in court in order to raise the children of these incarcerated individuals. These court processes will necessitate additional resources such as guardianship court investigators, mediation, and other support services for the caregivers.

A fundamental obstacle to justice exists when litigants do not speak English and courts lack interpreters

Principle E. Provide Fully Accessible Services throughout the State.¹¹

A legal services delivery system should make legal services fully accessible and uniformly available throughout the state, particularly in rural areas, to limited-English speakers, and to other particularly vulnerable groups.

Rural Access: Although still insufficient to meet the legal needs of their low-income and vulnerable populations, staffing, expertise, money, and, especially, pro bono resources for free legal assistance are concentrated in urban areas. During the past ten years, this problem has worsened, as lack of funds has forced many rural legal aid organizations to consolidate operations and shut down field offices.

The Legal Aid Association of California (LAAC) has made a concerted effort to ensure that rural program advocates receive the benefit of the expertise of better-resourced urban support center programs. Since 2001, LAAC has hosted a rotating “Traveling Training” that brings substantive expertise out to the communities in Sacramento, Fresno and San Diego to serve adjacent rural areas.

Minimum access guidelines, more detailed in Recommendation 12, should be developed, including minimum recommended staffing levels, which can then be used as a baseline for obtaining funding. As Recommendation 13 describes, focusing funding of Loan Repayment Assistance Programs for attorneys in rural areas will encourage recruitment and retention of lawyers in these counties and will therefore significantly improve access in rural areas. In addition, this plan includes as an idea to be explored, a multilingual hotline for brief service and referrals aimed at serving rural areas and benefit rural residents.

The Access to Justice Commission is in the process of preparing a report to highlight the rural resource issue. This report will focus understanding on the importance of the issue of barriers to access in rural communities. Once completed, the report will be available as authority to cite in communications to foundations, the media and others. The report will also support efforts to develop standards for legal services in rural areas, and proposals to increase rural resources. Part II includes the primary recommendations which will be made in the rural resources report, and which we therefore incorporate in this Action Plan.

Language Access: A fundamental obstacle to justice exists when litigants do not speak English and courts lack interpreters. The substantial increase in demand for language assistance in the courts is a function of shifting demographics. California has the most foreign-born residents in the United States – over a quarter of Californians, almost nine million people, are foreign-born.¹² Approximately 20 percent (almost 7 million) of Californians speak English less than “very well,” which is the minimum threshold for meaningful participation in a judicial proceeding. Almost 5 percent of our residents do not speak English at all.

In September 2005, the California Commission on Access to Justice published “Language Barriers to Justice in California,”¹³ a comprehensive report on language issues in the California courts. The Access Commission’s Report points to the large unmet demand for language assistance in court proceedings and the severe lack of resources to meet that need. Recommendations 21 through 24 reflect the conclusions of the Commission’s Report.

11. California Core Principle 8; ABA Principle 6.

12. U.S. Department of Commerce, Census Bureau, 2000 Census, Summary File 3, Table P21.

13. Language Barriers to Justice in California, California Commission on Access to Justice (2005) available at http://calbar.ca.gov/calbar/pdfs/reports/2005_Language-Barriers_Report.pdf.

Other Accessibility Issues: There are other populations with special needs whose legal needs must be addressed in order to ensure all Californians throughout the state have access to the courts and the legal system. These include many of the vulnerable populations mentioned above: people with physical or mental disabilities, institutionalized and incarcerated people, and the elderly. Further, a comprehensive legal services delivery system must also address issues of transportation and physical accessibility of legal assistance services.

Principle F. Conduct Client-Centered Planning.¹⁴

If the goal of improving and expanding California’s system for the delivery of legal services is to give vulnerable groups a voice in the justice system, then that voice must be heard loud and clear by programs designed to serve these groups. Legal aid programs engage in significant efforts to reach out to their clients to obtain their input in setting priorities for their provision of services. For example, client participation is encouraged and significant at the Annual Stakeholder meetings convened every year by the Legal Services Coordinating Committee. These meetings, discussed further under Principle H, have resulted in major initiatives designed to improve the delivery system and fill gaps in service throughout the state in large part due to client participation and input.

The judicial branch has similarly focused on the needs of court users. In February 2004, the Judicial Council adopted its “Statewide Action Plan for Serving Self-Represented Litigants.”¹⁵ The plan recognizes that services for self-represented litigants must be a core function of our courts if they are to address the growing and changing legal needs of Californians.

Continuing efforts to engage with court users, the Judicial Council commissioned the report “Trust and Confidence in the California Courts: A Survey of the Public and Attorneys”¹⁶ in 2005. The survey focused, among other issues, on the core concerns of the public regarding the courts and the administrative of justice in California. It found that the public places the most importance on procedural

14. California Core Principle 2; ABA Principle 7.

15. Statewide Action Plan for Serving Self-Represented Litigants, Judicial Council of California (2004) available at http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/Full_Report_comment_chart.pdf.

16. Trust and Confidence in the California Courts: A Survey of the Public and Attorneys, Judicial Council of California (2005) available at http://www.courtinfo.ca.gov/reference/documents/4_37pubtrust1.pdf (hereinafter Trust and Confidence Survey).



The system of delivery of legal services should be composed of partnerships between legal aid providers, community-based organizations, the judiciary and the courts, the private sector, all branches of government, and other stakeholders.

fairness, and that courts rate fairly highly on treating court users with dignity and respect. However, it also found that Californians consider outcome fairness to be least with low-income people and non-English speakers. Among several recommendations aimed at improving the public's experience and perception of the courts, the report recommends that the Judicial Council and local courts disseminate information that the public needs to protect its rights and use the courts effectively and appropriately, as well as provide information on court performance.

The different components of California's system of justice, such as legal services programs and California's judiciary are working to address many of the concerns raised by the public and their clients, and are being responsive to the particular problem areas identified by their constituents. Part II of this Action Plan provides myriad specific recommendations throughout the continuum of delivery of services informed by the needs expressed by the public.

Principle G. Establish Expansive Partnerships to Ensure Leadership and Increase Resources.¹⁷

The system of delivery of legal services should be composed of partnerships between legal aid providers, community-based organizations, the judiciary and the courts, the private sector, all branches of government, and other stakeholders.

The active involvement of the California judiciary in improving access to justice has been the most important development of the past ten years, particularly under the leadership of California Chief Justice Ronald M. George. Many federal and state bench officers are involved in these efforts and donate large amounts of time to very effective work through the Judicial Council and the Access to Justice Commission.

With Chief Justice George at the forefront of these developments, the Judicial Council has simplified court forms and court processes, expanded self-help centers throughout the state, promoted pro bono and partnerships between the courts, law libraries and legal service providers, and increased access to the courts via technology. Local courts have been partners in this process to facilitate access to justice while maintaining the neutrality of the courts. The commitment of California's judiciary has made California a national model that other states are replicating in their efforts to ensure access to justice.

Over the past nine years, the Access to Justice Commission has successfully partnered with the Judicial Council, the State Bar, the legal services community including the Legal Aid Association of California, concerned policymakers, self-help centers, law libraries, and other legal, judicial, and public entities in a unified effort to achieve equal justice, regardless of a person's financial status or language ability. This increased collaboration with key allies and supporters has helped expand the involvement of influential groups, and has helped form a strong infrastructure to support and coordinate the delivery of legal services.

In 2002, these entities contributed to a State Plan that comprehensively addressed access to justice issues and framed a statement of core principles for further action. The statement of core principles is attached to this Action Plan as Appendix 3.

17. California Core Principle 9; ABA Principles 5, 8 and 9.

A comprehensive evaluation of the components of the legal services delivery system is critical to ensure the effectiveness of the system.

Principle H. Coordinate Local, Regional, and Statewide Planning and Evaluate Components of the Delivery System.¹⁸

The delivery system should engage in coordination of regional and statewide planning, and include the oversight and evaluation of the system for the delivery of legal services. Ongoing planning efforts include the work of the Access to Justice Commission, the Legal Aid Association of California (LAAC) and the Legal Services Coordinating Committee, that involves representatives of all entities with responsibilities for part of the state’s legal services delivery system.

Each year the Legal Services Coordinating Committee convenes the Annual Stakeholder meeting, which has resulted in major initiatives designed to improve the delivery system and fill gaps in service throughout the state; for example, the 2001 Stakeholder Meeting resulted in a recommendation that the Access to Justice Commission address language barriers, which led to the publication of the highly-regarded “Language Barriers to Justice in California” report. As discussed above, client participation is also significant at these Stakeholder Meetings, and is part of a larger effort by legal aid programs to reach out to their clients to obtain input for priority setting.

California’s legal services programs have improved their evaluation methods over the past few years, due in part to the required evaluation of the Equal Access Fund. The Judicial Council, working with the Legal Aid Association of California and the State Bar’s Legal Services Trust Fund Program developed evaluation tools for a range of methods, and the resulting evaluative information was included in the report that was submitted to the Legislature in March of 2005. Evaluations of self-help centers, including Family Law Facilitators and Family Law Information Centers, have also been the focus of much attention; the final evaluation of the more recent self-help pilot projects was also submitted to the Legislature in 2005.

The information gathered from client input, evaluations and other assessments can also be used to carefully scrutinize the ways in which the existing system can reallocate the resources it already has to begin to fill the justice gap. This reallocation will help to obtain interim relief for the lack of adequate funding,

However, program assessments and evaluations have been hampered by the lack of resources of legal services programs to conduct these assessments and by restrictions imposed on programs to use funds toward expanded evaluation. Programs find themselves having to make the impossible choice of sacrificing client service in order to collect data on performance, client satisfaction, quality of assistance, and impact on communities served. And, there are significant problems posed by confidentiality requirements, difficulty of tracking individuals served in crisis lines, workshops, community education, and other limited or more anonymous forums, and the lack of clear and objective standards by which to measure program successes.

Despite these difficulties in evaluating programs and services, a comprehensive evaluation of the components of the legal services delivery system is critical to ensure the effectiveness of the system. Built-in regular and consistent reviews of the systems in place will also allow for ongoing modifications or expansion in response to client needs. More efforts must be focused on identifying additional resources for evaluation and assessment plans. Unless programs can identify what happens to their clients receiving different types of assistance, and how these clients assess the responsiveness of various service providers, it becomes very challenging to make informed choices about program design.

18. California Core Principles 6 and 7; ABA Principle 10.



California is not like any other state in the country; its population is not mirrored in any other state in terms of economics, diversity, opportunity and challenges. Any comprehensive effort to address true access to justice must keep California's uniqueness in mind when developing the creative solutions that California needs and its residents deserve.

Conclusion to Part 1

In its 2002 study—"The Path to Equal Justice"—the Commission reported that California had made tremendous strides in the prior five years in increasing access to justice. In large part, this resulted from such initiatives as implementation of the Equal Access Fund, through which \$10 million each year has been earmarked for free civil legal services for the poor, expansion of self-help centers in court systems in every county in the state and other innovative programs provided by legal services providers which have been designed to be as efficient and effective as possible with limited resources.

While much progress has been made in the last several years to enhance equal access to justice for the poor and disadvantaged, much remains to be done to meet the legal needs of indigent persons. A major "justice gap" still exists in California since we are only able to provide assistance to less than one-third of the low-income population facing critical legal issues. At the same time, moderate-income Californians who cannot afford an attorney continue to be unrepresented when they face difficult legal problems.

California is not like any other state in the country; its population is not mirrored in any other state in terms of economics, diversity, opportunity and challenges. Any comprehensive effort to address true access to justice must keep California's uniqueness in mind when developing the creative solutions that California needs and its residents deserve.

The request for this Action Plan provides a major opportunity—to focus the attention of the legal services community, the State Bar, the legislature, and judicial branch institutions on key recommendations to help make universal access a reality: to advance incrementally from a sound, principled, but sometimes remote, system of justice to a better one—more accessible, more effective, and ultimately, more just.



Addressing the justice gap is not a partisan issue.
It is the promise of our Pledge of Allegiance that
we are a nation of “liberty and justice for all.”

*Assembly Member Dave Jones
“After the Applause, Action Needed to Close the Justice Gap in California”
California Progress Report, March 8, 2007*

PART II

Recommendations: Action Plan for Justice

Since 1996, legal service providers, the courts, state and local bars and the client community have worked together in the planning of a statewide delivery of legal services that ensures true access to justice for all Californians. There have been many successes in the provision of legal services, but much remains to be done.

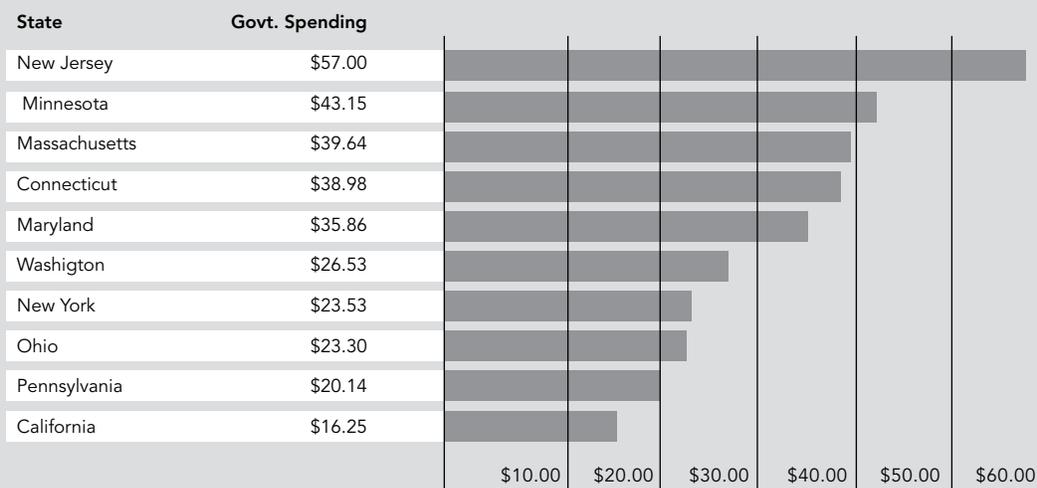
Along the continuum of legal services, there are several areas where all the entities involved in our legal system must be improved in order to guarantee improved and meaningful access:

- Legal Services Funding and Additional Resources,
- Increasing and Supporting Pro Bono,
- Improving Delivery of Legal Services to the Poor,
- Assistance for Self-Represented Litigants,
- Expanding Language Access, and
- Improving Services to Modest-Means Clients.

Each of these areas present past successes in the provision of services to low-income populations, and current challenges that must be faced and overcome in order to meet the legal needs of California’s population. Following are recommendations that together comprise an “Action Plan for Achieving True Access to Justice in California.”

CHART 1

Comparison of California with Other States Civil Legal Services for the Poor Government Spending per Eligible Poor Person - FY 2005



Source: American Bar Association’s Project to Expand Resources for Legal Services, the National Association of Protection and Advocacy Systems, and U.S. Bureau of the Census.

Legal Services Funding and Additional Resources

I. INTRODUCTION

California has been a leader in creating innovative approaches to providing access to the justice system. The collaborative efforts of the legal services community, the State Bar, and the statewide court system, working with the Legislature and the Administration, have significantly increased resources for civil legal services to the poor and have resulted in model projects that have been replicated around the country.

Unfortunately, the increases in funding that have been achieved, while critically important, have not matched the need for services. As a result, California is falling far behind many other states in funding for legal services programs. California ranks 22nd in the country in funding per poor person for legal services, according to the American Bar Association's Project to Expand Resources for Legal Services (PERLS). Several states have 2 or 3 times the amount of funding per poor person compared with California. See Chart 1.

There are only 754 legal aid attorneys in California, out of a total of 165,381 active attorneys, to address the legal problems of an indigent population that numbered 6.3 million in 2005, representing nearly 18% of the population. This results in the dismal reality that there are 8,360 eligible clients per legal aid attorney. See Chart 2 and Table 3.

CHART 2
Number of Legal Aid Attorneys Compared with Total Active Attorney Population

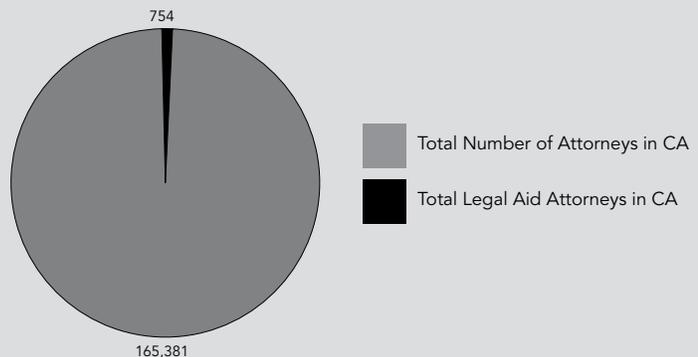


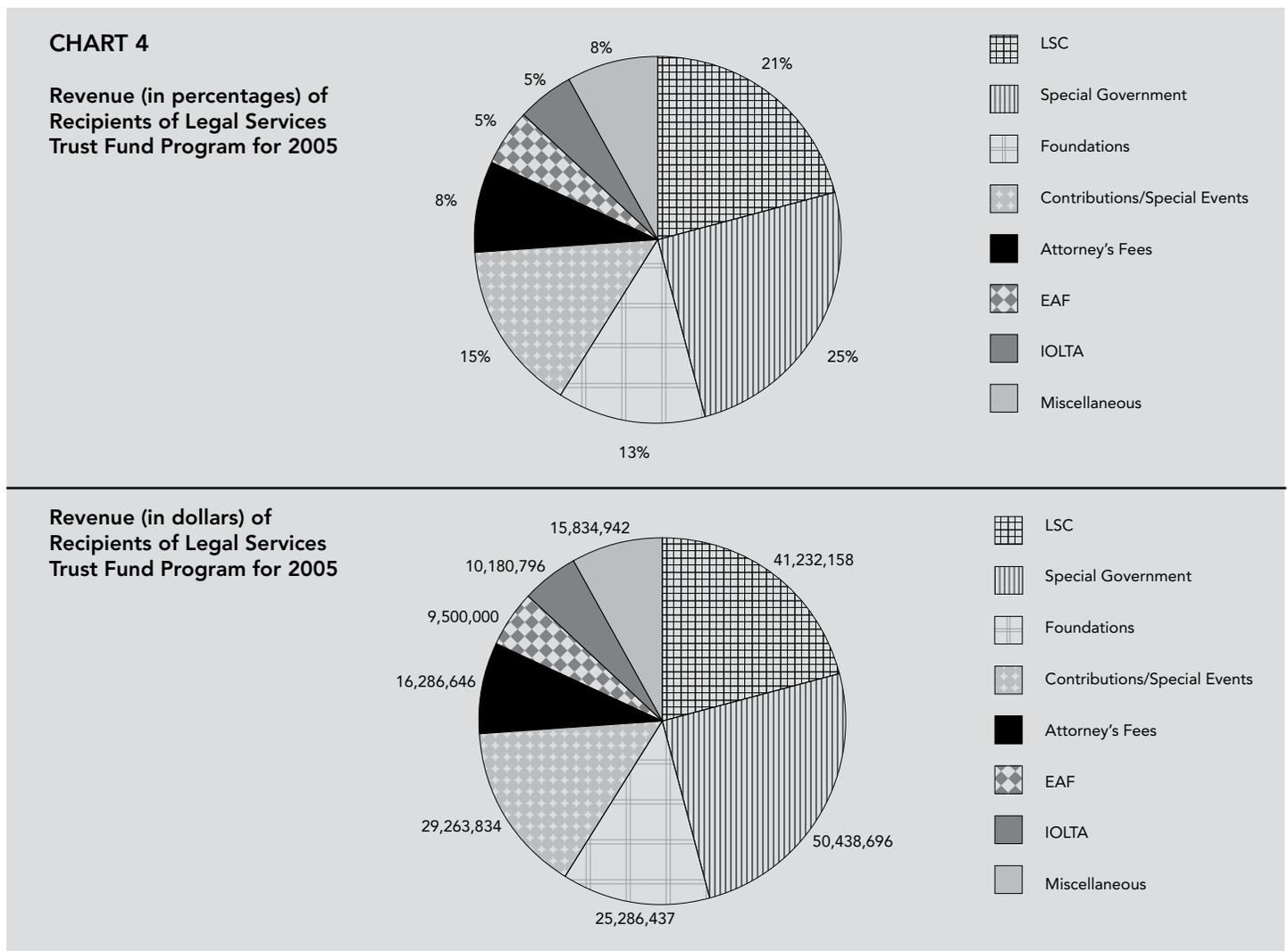
TABLE 3
Number of Eligible Clients Per Legal Aid Lawyer in 2005

Number of Californians below 125% of Poverty	6,304,000
Number of Legal Aid Lawyers	754
Number of Eligible Clients per Legal Aid Lawyer	8,361

Further inhibiting the ability of California’s legal services delivery system to address the legal needs of low-income residents is the fact that salaries for legal aid lawyers are very low even compared with public defenders, while legal aid attorneys face enormous law school debt burdens. This leads to very challenging recruitment and retention problems for legal services programs.

Background on Legal Services Funding, Particularly For the Core Legal Services Mission

Chart 4 provides some detail on the current sources of funding for legal services programs in California and the percentage of the total available resources represented by each funding source. They also reflect comparative information about the primary, ongoing government funding sources that have historically supported the core of the legal services delivery system. These include the federal Legal Services Corporation (LSC), the State Bar’s Legal Services Trust Fund Program (sometimes called “IOLTA” or “interest on lawyers trust accounts”), and the more recent California state appropriation for the Equal Access Fund established in 1999, and recently supplemented with court filing fees.



Following a large decrease in government funding in the 1990's, many legal services programs were forced to significantly reduce the level of core services they were able to provide to eligible clients. Although programs have since expanded other components of their overall program with special-purpose grants and short-term projects, they have not yet regained the level of basic services that they were able to provide to low-income Californians in the early 1990's.

The total "core government legal services funding" available to programs in 1993 was \$53.8 million; this amount translates to \$70.7 million in 2005 dollars, when adjusted for inflation. In comparison, as Table 5 shows, the core government legal services resources available in 2005 was only \$61 million, representing more than a \$10 million loss in core government funding for that 12-year period.

TABLE 5
Decrease in Core Legal Services Funding
1993 to 2005 [adjusted for inflation]

"Core Legal Services Funding" represents the basic, ongoing funding programs can rely on to pursue their core mission.

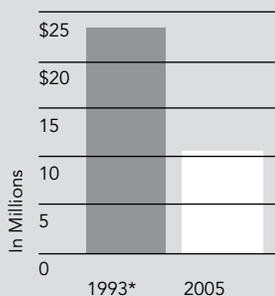
"Core Funding" includes: Legal Services Corporation (LSC), Interest on Lawyer Trust Accounts (IOLTA) and Equal Access Fund (EAF).

[See pages ____ of the Action Plan for a discussion of the total funding available – both core funding and all other sources of revenue.]

	Total Core Legal Services Funding Available (not adjusted for inflation)	Equivalent Amount in 2005 dollars
1993	\$53.8 million	\$70.7 million
2005	\$60.9 million	\$60.9 million
	Drop in Core Legal Services Funding from 1993 to 2005 (adjusted for inflation)	\$9.8 million

The disparity in current levels of core legal services funding for legal services is even more stark if federal resources are excluded and only state funding is considered. In 1993, state funding for legal services consisted only of \$18.9 million provided through the IOLTA system. By 2005, IOLTA funding had dropped to \$10.2 million. See Table 6. The Equal Access Fund was established in the late 1990's, and the resulting \$9.5 million state appropriation helped replace the lost IOLTA funding, bringing total state funding in 2005 (IOLTA and Equal Access Fund) up to \$19.7

TABLE 6
Decrease in IOLTA Funding 1993 to 2005



59% Drop in IOLTA Funding

IOLTA Funding in 1993 (\$18.9 million) adjusted for inflation as of 2005:	\$24.8 million
IOLTA Funding in 2005	\$10.2 million
Drop in IOLTA Funding – 1993 to 2005 in real dollars:	\$14.6 million

In 2005 dollars.

million. However, when adjusted for inflation, these totals represent an overall loss in available state funding. The \$18.9 million funding in 1993 would need to be \$24.8 million in 2005 to keep up with inflation, in contrast to the \$19.7 million available in 2005 through the combined IOLTA and Equal Access Fund amounts.

The "Justice Gap"

The overall increases in total legal services revenues discussed in this Action Plan are a result of the ongoing commitment of many around the state to improve the availability of civil legal services to the poor. Despite the fact that the core legal services delivery system is not expanding sufficiently to fill the ongoing "justice gap," total resources for some components of the overall delivery system have continued to increase. However, the need for legal services has also continued to increase.

As explained in more detail in "The Path to Equal Justice," there continues to be a substantial "justice gap" between the total funding needed to truly meet the legal needs of California's poor and the total amount of resources available for civil legal services. The gap was estimated in that report as being \$384.4 million as of 2000 (or \$434.4 million in 2005 dollars). At that time, the Access to Justice Commission estimated that the California delivery system was able to address approximately 28 percent of the legal needs of the poor.

Between 1993 and 2005, there was a \$65 million increase in total revenue for Legal Services Trust Fund recipients, adjusted for inflation. This is a significant increase, that was made possible because of the efforts of the legislature, the Administration, the judiciary, and the legal services community, and lawyers across the state. However, there remains a great deal to do to close the justice gap. See Table 7. As of 2005, with resources increased to \$198,005,509, the updated "justice gap" figure is \$394.1 million -- the gap between total resources available and what it would take to truly meet the legal needs of California's low-income community (See Chart 8).

TABLE 7
Total Revenue of Recipients of Legal Services Trust Fund Program from 1993 to 2005

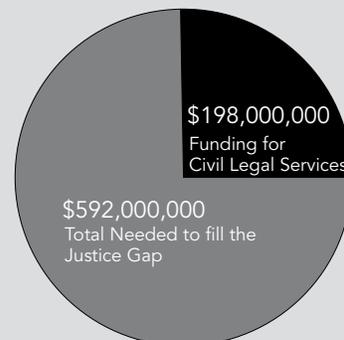
	1993	1993 in 2005 dollars	2005
TOTAL	\$100,900,000¹	\$132,664,705	\$198,005,509²

¹And Justice For All

²Legal Services Trust Fund Program, State Bar of California

CHART 8
Funding for Legal Services in California (2005)

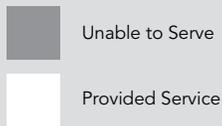
Result: Justice Gap of \$394 million



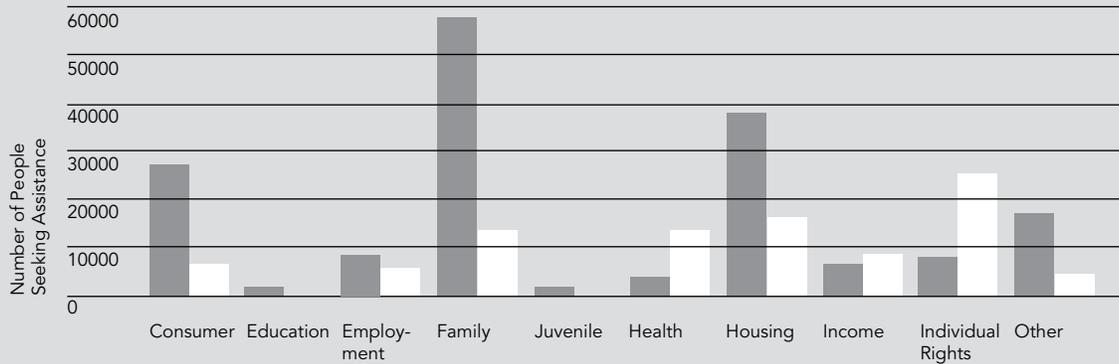
While California has made some important gains in terms of overall resources, legal aid programs are still not able to provide even a minimal level of legal advice and assistance for 67 percent of the legal needs of California’s poor. Chart 9 demonstrates the inability of LSC Programs to address all the legal needs of the poor with all types of legal issues, but particularly in the areas of family law, housing, and consumer problems. Even for the one third of the legal need that is being addressed, it is often addressed with brief services and advice, rather than with the full representation that low-income Californians often need and deserve.

CHART 9 2005 California “Unable to Serve” Data For LSC Programs

Types of Legal Problem



Total Funding for legal services
1996: \$101,198,207
2000: \$148,131,248



Next Steps in Efforts to Fill the Gap

The recommendations in the following section are intended to bring us closer to filling the significant justice gap that remains.

The information throughout this report paints a picture of a legal services delivery system that has become quite sophisticated and effective in its resource development methods, offers a range of innovative services funded with pilot funding, has a solid group of statewide institutions supporting its expansion, and has been successful in developing additional, one-time sources of funding.

However, despite the critical importance of the new funding sources that have been developed and that account for much of the increased resources, the numbers can be deceptive. Much of the new funding is temporary in nature, is limited in its use, and is not reliable ongoing funding. Much of this new funding is not available to support the core mission of the legal services program—to be the safety net for the low-income community, providing basic legal assistance for the important legal problems they face.

As described in Principle D in Part I, there is a tremendous need for stable, reliable, and adequate funding for all components of the legal services delivery system. Principle E in Part I reflects the goal of having those resources uniformly available throughout the state. The lack of sufficient, uniformly available funding in California has been well documented, and the continuing “justice gap” is intolerable. (See “The Path to Equal Justice” and the recent Legal Services Corporation Report, “Documenting the Justice Gap in America.”)

Increasing funding for legal services will have far-reaching effects which will ultimately stabilize and improve the lives of Californians and help the overall prosperity of our state.

Increasing funding for legal services will have far-reaching effects which will ultimately stabilize and improve the lives of Californians and help the overall prosperity of our state. Addressing the legal issues that face growing numbers of people will affect not just those receiving legal assistance; fewer homeless people will make neighborhoods safer, safeguarding employment rights and opportunities will promote employment and improve the workforce, which in turn will lead to higher child support payments, reduced homelessness, reduced crime, and better health care.

The legal services delivery system is a public-private partnership, and if the various entities responsible for funding part of that system were to expand as recommended in this Action Plan, much progress would be made toward reaching the goal of providing stable, adequate funding, uniformly available throughout the state.

II. RECENT STATEWIDE SUCCESSES

The recent legal services funding increases described below—provided through the Legislature and the Governor working with the Judicial Council and other representatives of California’s civil justice community—have helped reduce that justice gap and have significantly expanded access to justice in every county in California.

There have been three important successes, referenced in the discussion on Principle D, in the efforts to increase funding for legal services in 2006: Increased Equal Access Fund resources provided through the Uniform Civil Filing Fee System, application of the state appropriation limit to the Equal Access Fund, and AB 2301.

- **The Uniform Civil Filing Fee system**, effective January 2006, provides that a small part of the filing fees collected by local courts be added to the Equal Access Fund to support free civil legal services for the indigent. Based on the fees collected to date, it is projected that the filing fees will total approximately \$5 million in 2006, bringing the Equal Access Fund from \$10 million to roughly \$15 million for the next funding cycle.
- As of the 2006-2007 fiscal year, the Equal Access Fund is subject to the **state appropriation limit (SAL)**, which adjusts certain state funding to reflect increases in population, inflation, and other factors. For the first year of its applicability, the SAL resulted in a 4.96 percent increase in the Equal Access Fund. While there is need for a much higher increase in state funding, as described below, this development will help ensure that the existing Equal Access Fund is not diminished in impact because of inflation.
- **AB 2301 (Judiciary)** signed by the Governor on August 28, 2006, authorizes the State Bar to implement a system to facilitate contributions by individual attorneys to support legal services through the State Bar’s annual membership dues collection process. The bill requires the State Bar to create a Task Force of key stakeholders, in consultation with the Chief Justice, to examine ways to encourage attorneys to financially support legal services programs, analyze other state’s experiences with contribution systems and to make a recommendation to the State Bar Board of Governors for a program to be implemented in fiscal year 2008. (See Recommendation 7.)

- **Regional campaigns to increase contributions.** The Silicon Valley Campaign for Legal Services has been successful by focusing on area law firms and businesses to increase contributions to Silicon Valley legal service agencies to improve the ability of these legal services programs to serve low-income residents with the most critical legal issues.¹⁹ Nearby, the Santa Clara Bar Association, modeling the Silicon Valley Campaign for Legal Services, set a financial target of the equivalent of at least one billable hour per year. Similarly, the Bar Association of San Francisco recently adopted a resolution that declares a voluntary goal for San Francisco law firms of contributing at least one percent of total partner compensation to charity, with a substantial portion of these contributions to go to non-profits that provide legal services to persons of limited means or legal advocacy in the public interest.
- **Special events continue to be successful.** Just like other non-profit organizations, many legal services programs rely on special events as part of the mix of their annual revenues. Events such as award lunches, dinners and receptions, golf tournaments, comedy and casino nights, silent auctions and run/walk events have all been used by legal services programs to raise critically needed funds. These events help build community awareness of local legal services and pro bono programs, highlight the efforts of key volunteers and other supporters and spotlight the continuing needs of the client community. While special event fundraising can be costly and time consuming, special events have been a particularly important way for programs in major urban areas to raise support from law firms and businesses.



19. For more information regarding the Silicon Valley Campaign for Legal Services pro bono campaign, go to <http://www.svcls.org/index.htm>.

As a state, we need to make a commitment to closing the justice gap over the next decade.

III. RECOMMENDATIONS ON FUNDING AND ADDITIONAL RESOURCES

Recommendation 1.

Increase state funding for legal services through the Equal Access Fund.

The Equal Access Fund (EAF) must be significantly increased in order to bring our state closer to serving the needs of low-income Californians. As a state, we need to make a commitment to closing the justice gap over the next decade.

The EAF is currently over \$15 million per year, including \$10 Million from an annual appropriation, and the balance from civil filing fees. Beginning in FY2006-2007, the EAF is adjusted according to the annual state appropriation limit (SAL). For this year, the SAL provided an additional 4.96 percent in funding.

Serious thought should be given to additional revenue streams that could be dedicated to the Equal Access Fund. However, the core of the EAF is the annual appropriation. And despite several legislative attempts to do so, the EAF appropriation has not been increased in seven years, other than the small increase provided through application of the state appropriation limit. The \$15 million EAF amount only represents 42 cents per capita in California. Meanwhile, in a number of other jurisdictions, the state government provides from \$1 to \$2 per capita and one provides over \$5 per poor person.

In order to achieve the goal of closing the justice gap, the state government must take the lead and increase the Equal Access Fund appropriation by at least \$10 million for FY2007-2008. This amount represents only the first step toward increasing the EAF to an amount sufficient to adequately fund legal services in California. Each year after FY 2007-2008, the Access to Justice Commission, the State Bar, the Judicial Council and the legal services community will work with the Legislature and the Governor to establish the necessary increment to the EAF. The relevant parties will discuss the updated need for legal services funding, the increases that have been achieved from other sources, and other demands on the state budget, so as to determine how best to continue making planned, incremental progress toward filling the justice gap by 2016.

At the same time, increases will also be sought in the other legal services funding sources, as described more fully below. Thus, when considered in the context of the entire spectrum of funding sources available for civil legal services, the Equal Access Fund, combined with increases in other sources, will bring our state closer to serving the critical legal needs of low-income Californians.

Recommendation 2.

Pursue comparability proposals to increase the yield on IOLTA accounts.

Traditionally, revenue from IOLTA accounts in California has not been as high as it could be, particularly when considering the increasing federal funds rate, and the availability of other types of accounts, such as sweep accounts.²⁰ The Legal Services Trust Fund Program has recently experienced some resource development success through its work with banks, encouraging them to reduce service charges and/or increase the interest rates they are paying on IOLTA accounts. Revenue has recently increased by approximately \$115,000 per month, or \$1.4 million on an annual basis, simply because of those yield increase efforts undertaken since the beginning of 2006. These efforts have raised the total distribution to \$12.7 million for the 2006-2007 grant year. Both the Commission and the banks themselves should be commended for these successes, and these efforts should continue.

20. A sweep account is one in which funds in excess of an established limit are "swept," overnight, into higher-interest bearing accounts. In the morning, the funds are swept back into the original accounts, bringing with them the overnight increases.

Elder safe from fraud

Mr. Davis, an elderly widower with health issues had taken out a high-interest loan to pay for the repairs his “friend” the contractor was supposed to do. Playing on their supposed friendship, the contractor not only grossly overcharged him for the work, but also ran up \$15,000 on Mr. Davis’ credit card. When Mr. Davis went to legal aid he was \$60,000 in debt. On a fixed income of Social Security and a modest union pension, he couldn’t make the house payments and was in danger of losing his home of 30 years. Legal aid staff identified the all-too-common scam by operators who prey on senior citizens to swindle them out of the equity in their homes. Legal aid sued to cancel one of the loans and had the other one reduced. Mr. Davis also got his credit card debt eliminated. His home was saved.

More can be done, however, and California is now pursuing other approaches to increase the yield from IOLTA accounts. The State Bar Board of Governors adopted a proposal at its November 17, 2006 meeting, approving in principle the Trust Fund Program’s Comparability Initiative. The Trust Fund Program has been developing this Initiative over the past few months, which will possibly require modifications to both the authorizing statute and implementing court rule. This initiative is modeled on other states that are seeing dramatic increases in the yield on IOLTA accounts when they expand the types of accounts permitted for IOLTA use and require comparability of net yields on IOLTA accounts. Comparability requires financial institutions to provide net yields on large IOLTA accounts that are at least as good as the highest yields provided on non-IOLTA accounts with comparable characteristics. In effect, financial institutions are given the option of either converting their IOLTA accounts into sweep accounts or alternatively raising the interest rates on IOLTA accounts so that an equivalent net yield is achieved.

This Action Plan therefore recommends the continued pursuit of comparability proposals to increase the yield on IOLTA accounts, and adoption of necessary legislation and court rules to implement the finalized comparability initiative.

Recommendation 3.

Fund local pilot projects to provide a continuum of service, including full representation, for high priority needs.

This Action Plan recommends funding pilot projects to implement a coordinated continuum of responses, including full representation where appropriate, to specific, basic legal needs faced by individuals with limited or no access to legal assistance in those communities. The pilot projects should be designed so as to enable the gathering of data and information California needs to determine the costs and infrastructure requirements involved in fully meeting the legal needs of the poor.

The legal services delivery system lacks adequate resources to be able to provide appropriate help for everyone who faces serious legal problems. There are too few full-time legal aid and pro bono lawyers to meet all the legal needs of those whose income is low enough to qualify them for free legal services. And different legal needs require different levels of assistance and will vary in the costs required to address them. Similarly, the consequences involved with different legal needs vary in their severity and effect on the lives of those who face them.

Because legal representation plays such a crucial role in meaningful access to justice, Chief Justice Ronald M. George recently proposed developing pilot projects aimed at providing full representation for low-income litigants in a limited category of cases, such as family law and housing in which important individual rights are involved.²¹ Proposed pilot projects would be tested in communities in three counties—ideally, one small, one medium-sized and one large.

The pilot projects proposed by the Chief Justice would increase representation for court-related matters while developing important information about how best to serve Californians’ critical legal needs.

The proposed pilot project could test ways to fill the justice gap, could seek to leverage available state funding in ways that would enhance other resources such as pro bono and reduced-fee services, and could become one of our state’s strategies for

21. In a related event, on August 7, 2006, the ABA House of Delegates unanimously approved a Resolution on providing legal counsel as a matter of right—recognizing that proceedings where shelter, sustenance, safety, health or child custody are at risk should be considered especially high priorities.

assisting in allocating future funding increases for the State's legal services delivery system. Pilots are also needed to address ways to improve legal representation for non court-related legal issues facing individuals with limited or no access to legal assistance.

In developing the proposed pilot projects, it would be valuable for each pilot location to create an advisory panel including court officials, legal aid providers, local bar associations, and others to make local recommendations about which basic legal needs to address in their community, and to help design a coordinated project to utilize available resources as effectively as possible. Ideally each pilot program would include a system for intake of clients who face the targeted problems, directing the clients to appropriate legal assistance, ranging from self-help services, to limited-scope representation, to full representation by attorneys.

In order to properly measure the success of the pilot projects, to evaluate the services provided, and identify best practices to be replicated statewide, a structured evaluation of the overall program would be a part of the planning from the outset.

The funding for these pilot projects would include the expenses incurred in organizing, coordinating and administering the projects, as well as the costs of the evaluation which will produce the evaluation report to the Legislature.

Recommendation 4.

Continue efforts to seek sufficient state funding to implement loan repayment assistance programs (LRAP) for legal services attorneys.

As previously discussed, legal services programs report many difficulties in recruiting law school graduates, and for those who do make the initial decision to work at legal aid, retention becomes similarly challenging. Law school graduates now face unprecedented amounts of student loan debt upon graduation, often facing a debt totaling over \$80,000 (translating into more than \$1,000 per month in loan payments). According to a national survey of legal services attorneys under the age of 35 undertaken by the National Legal Aid and Defender Association (NLADA) in the fall of 2006, nearly 90 percent of the respondents from California reported that they graduated from law school with educational loan debt. Of those with student loan debt, 46 percent graduated with a debt of at least \$90,000, and a startling 22 percent found themselves with over \$120,000 in educational debt when they graduated.

This level of debt makes it practically impossible for legal services organizations, only able to offer salaries well below those offered by other public sector employers and at a fraction of what private firms provide, to attract attorneys to provide legal services to low-income populations. See Table 10, demonstrating the rapidly rising law school tuitions and median salaries in different sectors.

Recruitment and retention of legal services attorneys are particularly difficult to overcome in rural areas, as explained in more detail below in the recommendations relating to the delivery of services to rural populations. They also have a disproportionate impact on law students of color since they are more likely to come from middle and lower income families. The result is that the legal services community, which serves perhaps the most diverse client base within the legal profession, is not reflective of California's diversity.²²

22. For more information, see "Diversity Pipeline Issues for Legal Service Providers" by the Standing Committee on the Delivery of Legal Services.

TABLE 10**Loan Repayment Assistance Programs**

Law students now graduate with unprecedented levels of educational debt, while legal aid attorney salaries have not kept pace with rising law school tuitions or the salaries of other public interest or private sector attorney positions.

Law School Tuitions from 1985-2005¹ (not adjusted for inflation)

	1985	2005	Percentage Increase from 1985 - 2005
Median Private Law School	\$7,385	\$28,670	288%
Median Public Law School Tuition for Residents	\$1,792	\$12,107	576%
Median Public Law School Tuition for Non-residents	\$4,876	\$23,506	382%

According to a recent National Legal Aid and Defender Association (NLADA) survey of legal aid attorneys under 35 years of age, nearly 90% graduated from law school with educational debt; of these, 46% graduated with at least \$90,000 of educational debt and a startling 22% with over \$120,000.

The NLADA survey also found that over half of the California respondents plan to leave their current legal services position within three years, and one third plan to leave within a year or less. 60% of the respondents cited "increase salary" and/or "loan repayment assistance" as the primary change that would cause them to stay for a long time.

Median Legal Salary Comparisons by Years Employed

Years of Experience	Median Salary West Region Civil Legal Services ²	Median Salary West Region Public Defenders ³	Median Salary Private Firm Nationwide ⁴
1 year or less	\$36,000	\$52,510	\$100,000
3 years	\$43,400	\$70,907	\$110,000
5 years	\$46,378	\$75,186	\$122,500
8-10 years	\$50,000	\$80,860	\$145,000 ⁵

¹Based on data collected by the American Bar Association Section of Legal Education and Admissions to the Bar in its Annual Questionnaire to American Law Schools, 1985 and 2005.

²NALP, The Association for Legal Career Professional, Public Sector & Public Interest Attorney Salary Report (2006).

³Id.

⁴NALP, The Association for Legal Career Professional, Associate Attorney Salary Survey Report (2005).

⁵This figure represents the median salary for 8 years of experience only.

Retention of attorneys working for legal aid programs is also a serious problem. The NLADA survey also found that more than half of California's legal aid attorneys under 35 plan to leave their current job within the next three years. One third plan to leave within a year or less. When asked what the number one change their program should make to for them to stay for a long time, 60 percent of the attorneys surveyed listed "increase salary" or "loan repayment assistance" or both.

Law schools and legal services programs are attempting to address the obstacles presented by rising student loan debts and low salaries. The number of California law schools offering some form of loan repayment assistance to their graduates is slowly increasing, but those programs benefit only the alumni of those schools, regardless of where they practice law, so the effect of these programs is not always felt by the California legal services delivery system. California's legal services organizations are carving out loan assistance for their employees from their limited and already insufficient funding. Based on a November 2006 survey of legal services organizations in California, with 37 programs responding, employer-based loan repayment programs accounted for over \$227,000 in loan assistance to new legal aid attorneys in California.

While addressing the climbing law school tuition costs and the need for modest increases to legal aid attorney salaries requires a multi-pronged approach, the funding of the Public Interest Attorney Loan Repayment Program, created by AB 935 (Hertzberg, 2001) is a critical component.

AB 935, codified at Education Code § 69740, et seq., was designed to provide loan repayment assistance to law school graduates working to improve the lives of low-income and other vulnerable, underserved Californians. However, state funding was never allocated to actually create the program. Public funding of the LRAP program can serve to leverage LRAP funds provided by law schools, legal services programs, and the federal government and should be a key component in efforts to address the serious retention issues faced by legal services programs.

It is critical that state funding be allocated to allow the California Student Aid Commission to adequately fund the Public Interest Attorney Loan Repayment Program authorized by AB 935, as the Legislature intended, be continued.

Recommendation 5.

Pursue strategies to create formal structure to use *Cy Pres* funds to support legal services statewide.

Under *cy pres* doctrine, courts may award unclaimed, residual funds from class action lawsuits to the "next best" use. In class action suits, when a payment of damages to class members is ordered or agreed through settlement, a fund is created and a time period is set during which class members may make claims on the funds. Often few class members actually do so, giving judges the power to put these unclaimed awards to their next best use. Such awards are often made pursuant to the stipulation or recommendation of, or through settlement agreement between, the plaintiffs and defendants.

Existing law in California specifically provides that *cy pres* funds may be paid to organizations that provide civil legal services to the indigent, regardless of the areas of law at issue in the case.²³ The millions of dollars that already are distributed through *cy pres*, is an indicator of this largely untapped source of support for the legal aid community. While there are sporadic significant examples of *cy pres* to legal service organizations, there is not a regular practice by the courts or by counsel in cases with unclaimed residual class funds of distributing the funds to legal service organizations.

Legal aid supporters in other states have addressed this issue through a variety of strategies. In Indiana and Oregon, leaders developed educational campaigns to inform judges and counsel in class action cases about the possible use of *cy pres* to support legal services and pro bono programs. Several states have enacted statutes or rules that allocate a certain percentage of *cy pres* to a fund that is distributed to legal services organizations. For example, in Washington State, the State Supreme Court approved a rule that not less than 25 percent of *cy pres* funds be disbursed to the Legal Foundation of Washington. North Carolina amended its statute to provide that unclaimed residuals be equally divided between two funds. In each of those states, getting key stakeholders to support the effort was critical to its success because of the delicate balance between allowing the settling parties sufficient freedom to effect a meaningful settlement, and yet maximize dollars that will be allocated to legal aid.

Additional discussion and conversations with key stakeholders are required before specific recommendations can be made. However, *cy pres* is a potential source of on-going revenue for legal services in California, and California advocates should pursue developing a formal mechanism through which *cy pres* can be distributed to legal services programs statewide.

Recommendation 6.

Promote statewide funding for the delivery of legal services to seniors, including consideration of the recommendations of the AB830 Task Force.

Funding levels for the delivery of senior legal services in California are inadequate. AB 830, the Senior Legal Services bill, was signed into law in 2001, requiring a task force to study and make recommendations to enhance the delivery of legal services to seniors in California. The Task Force, which included prominent members of the statewide legal services community and representatives of the State Bar, issued its Final Report in 2002. Among its many findings, the Report sets forth several specific recommendations for enhanced statewide funding, including a request for increased appropriations to enable the California Department on Aging to support and fund legal services for seniors in California. Other recommendations in the Final Report include: enhancing communication among providers, stakeholders and the public; setting statewide standards for service for seniors; and developing consistent, effective tools for monitoring and evaluation.

This Action Plan recommends that the proposals in AB 830 Task Force Final Report for statewide funding for the delivery of legal services to California's seniors be given serious consideration. See Appendix 5 for a reference to the Task Force Final Report.

²³. California Code of Civil Procedure § 384.

Recommendation 7.

Pursue increase in financial contributions by attorneys to legal aid programs and facilitate the collection and dissemination of those funds as appropriate.

In addition to doing pro bono legal services, lawyers should also consider it their professional responsibility to provide financial support to non-profit legal services programs. ABA Model Rule 6.1 provides:

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year...in addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means. (ABA Model Rule 6.1.)²⁴
(See also Recommendation 10 below).

As is discussed throughout this Action Plan, legal aid agencies are dramatically underfunded. Programs are forced to turn away many needy clients who are otherwise eligible for their services, and approximately two thirds of the legal needs of Californians remain completely unmet.

Foundations, private non-lawyer donors, corporations and grantmakers are often hesitant to provide funds to non-profit legal agencies for a variety of reasons, significant among them concerns that the work done by legal programs such as litigation or public policy work may yield results that are unpopular with the grantors. When these groups do provide funding for legal services, it is often limited to funding for new start-up projects, and not for ongoing costs associated with the core services provided by legal aid programs to meet well-established and ongoing client needs.

Moreover, in order to adequately implement any significant pro bono effort, funding is needed for the pro bono recruitment projects, for the staffing required to screen clients, refer them to the appropriate pro bono attorney, and also train, mentor and support the pro bono lawyers.

Attorneys can, and should, take responsibility for devoting resources toward the adequate funding of legal services to meet the justice gap in our state. As the Legislature itself declared,

... the legal profession should play a lead role in the effort to improve the justice system, and each lawyer has a personal obligation as a member of the profession to ensure that all persons have equal access to the courts for redress of grievances and access to lawyers when legal services are necessary, including through the provision of pro bono services and through financial support to nonprofit organizations that provide free legal services to the poor.

(AB 2301 Section 1(i) (2006), expressing the intent behind section 2, adding Business and Professions Code §6330 to facilitate the collection of voluntary contributions to legal services program via the State Bar annual membership dues process.)

The State Bar should pursue strategies for the collection of these financial contributions, and their distribution as appropriate. It should also work with the new task force established to implement AB 2301 and to promote lawyer giving to legal services programs. The Access Commission will closely monitor the results from the implementation of AB 2301 and consider other options for increasing attorney contributions.

For six years, Juan was a cook in a restaurant, working long hours without being paid overtime. Though he knew he was being cheated, Juan also knew he'd be fired if he complained, and he had a family to support. Finally, Juan filed an overtime claim with the Labor Commissioner and was awarded his wrongfully withheld wages. The employer appealed. Juan went to the legal aid worker's rights clinic where a staff attorney took his case and prepared an appeal. On the day set for trial in superior court, facing a potentially larger judgment, Juan's former employer agreed to pay him \$14,000. Juan has put the money away for his family and is now employed as a cook elsewhere.

24. American Bar Association Model Rule 6.1 Voluntary Pro Bono Publico Service available at <http://www.abanet.org/legalservices/probono/rule61.html> and attached to this Action Plan as Appendix 5 (hereinafter ABA Model Rule 6.1).



IV. FUNDING OTHER COMPONENTS OF THE DELIVERY SYSTEM.

The previous seven recommendations address funding for major components of the legal services delivery system. Funding needs for other critical components, such as self-help centers, the delivery of services in rural counties, the heightened need for loan repayment assistance for attorneys serving in rural areas; the provision of interpreters for limited-English speakers, and programs aimed at serving moderate-means Californians, are included in the recommendations made under other sections in this Action Plan specifically addressing each of those components.

Implementation of the seven recommendations described above would bring us much closer to filling the justice gap and realizing the principles outlined in Part I. It will take the coordinated effort of all members of California's civil justice community to achieve these goals.

Pro bono programs now mobilize large numbers of pro bono attorneys whose efforts, along with those of legal services attorney staff, help provide a continuum of legal services to California's low-income population.

Increasing and Supporting Pro Bono

I. INTRODUCTION

Every year, tens of thousands of California lawyers provide pro bono legal services in conjunction with over 100 California legal services programs or other public interest groups. They represent low-income families in child custody and support, eviction, debt collection, bankruptcy, immigration and other matters. They litigate larger cases seeking to redress widespread, systemic problems affecting the poor. They provide business law assistance to non-profit organizations and micro-entrepreneurs. They staff clinics at senior centers, family resource centers and homeless shelters where they offer brief advice, counsel and information. They assist in community education and outreach programs designed to inform and enable low and moderate-income individuals to resolve their own legal issues.

While organized pro bono efforts have existed for many years, during the past 25 years in particular the legal profession has sought to significantly expand institutionalized pro bono rather than rely on the isolated acts of charitably minded lawyers. In the early 1980s, pro bono programs established by, or in conjunction with, local bar associations began to work closely with legal services programs as part of a requirement by the federal Legal Services Corporation that legal aid programs devote 12.5 percent of their LSC funding to efforts designed to involve private attorneys in the delivery of free legal services.

Pro bono programs now mobilize large numbers of pro bono attorneys whose efforts, along with those of legal services attorney staff, help provide a continuum of legal services to California's low-income population, from legal representation, impact litigation and business law assistance to non-profit organizations and micro-entrepreneurs, to community education and outreach, and policy advocacy.

Pro bono has become such an important part of legal services delivery in California that many legal services organizations blend together the efforts of paid staff and pro bono volunteers. While the efforts of volunteer lawyers, paralegals and law students will never fill all of the unmet legal needs facing low and moderate-income Californians, they are a crucial element in the network of attorney-staffed legal services programs.

However, there remains significant capacity for the legal community to provide more pro bono legal services. Therefore, it is important that pro bono and legal services programs have the resources to successfully recruit, train, mobilize and mentor California pro bono lawyers.

No longer is pro bono primarily the province of individual lawyers deciding to handle a single pro bono case. Pro bono programs use an array of methods as part of a planned effort to connect significant numbers of volunteer lawyers with clients in need of help. Those pro bono recruitment and matching efforts require resources to ensure their success. As part of the myriad recruitment efforts directed towards the bar, it is critically important that California's lawyers be continuously prompted and encouraged to provide pro bono legal services.

California's lawyers do many good works for the communities in which they live and work, from helping to feed the homeless, to participating in mentoring or volunteering in religious activities. While we do not want to discourage lawyers from becoming involved in any of these worthwhile activities, lawyers (and supervised paralegals and law students) are the only group who are in a position to provide the volunteer legal services needed by California's growing low and moderate-income communities.

II. RECENT SUCCESS IN DEVELOPMENT OF PRO BONO RESOURCES

Throughout the state, pro bono providers and volunteer lawyers are working together to develop strategies for greater volunteerism. Over the last 6 years, local bar associations in collaboration with large law firms and legal services agencies have been actively involved in increasing pro bono assistance, with specific successes in San Francisco, Silicon Valley, Los Angeles and Santa Clara Counties. (A more detailed discussion of these successes can be found in Appendix 8.)

In recent years, many lawyers have changed their approach to pro bono legal services. Historically, most lawyers became involved in pro bono work from a desire to give back to the community or other altruistic motivations. However, when formal pro bono programs began to develop in the early 1980s, lawyers have been increasingly regarding pro bono legal services as beneficial to the business of practicing law.

Appreciation of the business reasons for performing pro bono legal services is most pronounced in large law firms. Currently, law firms take a more organized, planned view of pro bono than has generally been the case in the past, instituting practices such as designating pro bono partners to coordinate pro bono work, professionally designing pro bono reports, web pages and newsletters, appreciating the importance of pro bono to recruitment and retention of lawyers, as well as creating law firm legal services fellowships and rotation programs.

Moreover, law firm corporate clients, because of their own corporate social responsibility concerns, are increasingly showing interest in their lawyers' corporate social responsibility, creating a strong economic motivation for law firm pro bono. Annual rankings of large law firms in the influential *American Lawyer* magazine also have a strong impact on law firm pro bono practices. As a result of these various factors, there appear to be more large-firm lawyers interested in pro bono than ever before.

Although operating with much fewer resources than large firms, lawyers in small firms and solo practitioners have business related motivations for providing pro bono legal services, just as their large firm counterparts. Through training and experience, pro bono lawyers learn substantive, procedural and case management skills that enhance their ability to serve paying clients.

New lawyers, in particular, find pro bono service an important way to develop expertise needed to start a law practice. Pro bono service offers lawyers the opportunity to network with other members of the legal community. Because most MCLE training programs offered by pro bono providers for prospective volunteers only "cost" a commitment to take on a certain number of pro bono cases, lawyers can satisfy their MCLE requirements at little out of pocket cost.

III. RECOMMENDATIONS ON INCREASING AND SUPPORTING PRO BONO

More California lawyers should provide pro bono legal services. To help close the justice gap, not only must the number of pro bono volunteers increase, but the amount of pro bono service that lawyers provide must also increase. Pro bono opportunities should continue to expand so that pro bono lawyers can become involved in a range of assistance including self-help centers, brief service clinics, extended individual representation and impact litigation and advocacy. The goal of these recommendations is to increase the depth and breadth of pro bono involvement.

Greater engagement of the legal community in the delivery of pro bono legal services is not any one group's responsibility. The State Bar of California, the California Access to Justice Commission, the Legal Aid Association of California, local bar associations, pro bono and legal services programs and others should work together to expand pro bono legal services.

Recommendation 8. Increase statewide support for local and regional efforts to encourage more pro bono.

Building on successful lessons learned in cause-marketing efforts discussed above, there should be greater statewide support for local and regional campaigns and other efforts to increase pro bono. This support would help local legal services providers and pro bono programs design and/or implement campaigns that resonate with local lawyers in a wide array of practice settings. Leaders of the legal community, such as judges, bar association leaders, law firm managing partners, as well as leaders in the broader community, such as government, business, religious and other civic leaders, should be encouraged to help deliver the message and theme of such campaigns throughout the legal profession.

As part of a comprehensive campaign to promote pro bono, web resources for lawyers should be expanded to educate lawyers about pro bono opportunities in their communities, connect lawyers to pro bono opportunities, and provide them with valuable training and support for handling pro bono cases in specialized areas of law. Similarly, these resources should include information and education for attorneys on malpractice insurance issues as they relate to pro bono work through legal services programs and organized pro bono programs, which normally have "errors and omissions" coverage for attorneys performing pro bono work through them.

One such resource could arise out of the collaboration currently under way between the Legal Aid Association of California and Probono.net, a national legal services website developer. Through this collaboration, the information discussed here could be made available to lawyers in an interactive "Pro Bono Portal," which would also serve and as efficient and effective way for lawyers to track their pro bono hours.



To help close the justice gap, not only must the number of pro bono volunteers increase, but the amount of pro bono service that lawyers provide should also increase.

Safe from abuse and homelessness

Martha, a woman with a disability, left her physically abusive partner. She could not afford her own place to live, and stayed with friends as long as she could. Eventually, she had to spend every night in city shelters. The legal services program in her city, working in collaboration with a homeless advocacy group and the Housing Authority, helped Martha obtain subsidized housing and access SSI benefits, which allowed her to pay her rent and meet her basic expenses.

Recommendation 9.

Develop ongoing judicial support for pro bono.

Over the past several years, a number of justices and judges have engaged in efforts to encourage lawyers to provide greater pro bono legal services. While many federal and state bench officers are involved in these efforts, the leadership from California Chief Justice Ronald M. George has been most influential in motivating lawyers and fellow jurists to become involved. Indeed, early in Chief Justice George's tenure, the Judicial Council unanimously passed a resolution urging members of the California judiciary to encourage pro bono work. A copy of the May 1996 resolution is set forth in Appendix 9 to this Action Plan.

Even with this resolution, however, much of the involvement of the judiciary in encouraging pro bono continues to be episodic and there have been limited opportunities for the judiciary to play a systematic role in encouraging pro bono. Federal and state courts should be urged to develop programs, in collaboration with state and local bar associations, pro bono programs and legal services offices, to encourage, facilitate and recognize pro bono representation of indigent parties in civil cases. Both federal and state courts should review and update any existing pro bono policies they have adopted, and pursue implementation plans as appropriate. In so doing, the judiciary can have a more sustained impact on pro bono participation in California.

Recommendation 10.

The Supreme Court, the State Bar and local bar associations should pursue the goals of ABA Model Rule 6.1 that strongly encourage attorneys to engage in pro bono work as well as to contribute to legal services programs.

ABA Model Rule 6.1 on Voluntary Pro Bono Publico Service states that “[e]very lawyer has a professional responsibility to provide legal services to those unable to pay.” It creates an aspirational goal of providing at least 50 hours of pro bono legal services per lawyer each year. In addition, it encourages lawyers to contribute to local legal services programs, particularly those lawyers who are unable to provide the suggested minimum of 50 hours of pro bono per year.

The provisions of California's Rules of Professional Conduct are enforceable through the disciplinary system of the State Bar, and do not include purely aspirational goals. However, the Supreme Court, the State Bar, and local bar associations should consider ways to develop public policy and support efforts that achieve the important goals and principles contained in the ABA Model Rule 6.1. (See Appendix 6.)

In 2002 the State Bar Board of Governors adopted the current California Pro Bono Resolution, urging all California attorneys to provide or deliver at least 50 hours of pro bono to the poor or to nonprofits. This resolution has stronger language than the ABA Rule, which allows a portion of the 50 hours each year to be sliding scale legal services to persons of limited means or participation in activities for improving the law, the legal system or the legal profession. By limiting the definition to direct delivery of legal services to the poor or to nonprofits, California emphasizes the need to provide more representation to the state's most vulnerable populations.

As more fully discussed in Recommendation 7 above, “...each lawyer has a personal obligation as a member of the profession to ensure that all persons have

Law schools also play a crucial role in encouraging pro bono service from their students as well as promoting careers in the public interest and creating socially conscious lawyers committed to providing access to justice to the poor throughout their legal careers.

equal access to the courts for redress of grievances and access to lawyers when legal services are necessary, including through the provision of pro bono services and through financial support to nonprofit organizations that provide free legal services to the poor.” (AB 2301, Section 1(i) (2006).)

Pursuing the goals of Model Rule 6.1 and the legislative intent reflected in AB 2301 would help close the justice gap in California. The ongoing endorsement of pro bono by the Chief Justice has been particularly effective, and the Access Commission should work with the Chief Justice and the Supreme Court, as well as local judges and bar associations, to build on these efforts. Experience with aspirational goals, including those previously adopted as part of targeted pro bono recruitment campaigns by the State Bar and local bar associations, suggests they can be successful in encouraging lawyers to perform more pro bono services and in increasing their financial support for legal services to the poor.

Recommendation 11.

Adopt ABA Model Rule 6.5 to facilitate attorney participation in advice and counsel clinics.

Model Rule 6.5 allows attorneys working in legal services and court-based advice and counsel or brief service clinics to assist clients, unless the attorney has actual knowledge of a conflict. Those volunteer attorneys would also not bring the conflict of the client served at the clinic back to the law firm.

California’s ethical rules prohibit advice on a specific set of facts even at an event such as Annual Law Day clinics, if anyone in any of the firm’s offices represents the adverse party. Clearing conflicts at a drop-in clinic is so burdensome that few firms attempt it.

In states that have adopted Model Rule 6.5, attorneys are able to staff clinics in poor neighborhoods and assist any client with advice and counsel or brief service as long as they have no actual knowledge of a conflict within the firm. Pro bono law firms in these states have developed a broad range of new clinical models under this Model Rule. Adoption of Model Rule 6.5 would allow far greater participation by California’s law firms in providing basic counsel to thousands of low-income residents.

The State Bar should recommend to the Supreme Court that it adopt the principles contained in ABA Model Rule 6.5 into the California Rules of Professional Conduct. (See Appendix 7.)

III. OTHER SUGGESTIONS EXPLORED, FOR POSSIBLE FUTURE CONSIDERATION

Attorney self-reporting of pro bono

Presently there are 16 states in which lawyers annually report their contribution of time or money to legal services programs. In five of those states lawyers are required to report; reporting in the other 11 states is voluntary. In June 2006, Illinois became the most recent state to require pro bono reporting.

Funding is vastly insufficient to ensure that the basic legal needs of a given rural community are met.

The Commission on Access to Justice has studied the results in the states that have undertaken reporting requirements. The experience of these 16 states suggests several conclusions:

- while a pro bono reporting system can raise generally the profile of pro bono, and some states have experienced an increase in the number of hours reported, it is not clear that such a system will result in lawyers actually performing more pro bono service;
- given California's size and the relative anonymity of law practice in many areas of the state, it is unclear whether pro bono reporting, which includes elements of incentives and peer pressure, would work the same way in our state;
- consideration of the views of lawyers in various practice settings is critical to ensure successful development, adoption and implementation of a pro bono reporting system; and
- administration of a pro bono reporting system usually involves significant costs for which funding must be allocated.

With these conclusions in mind, the Commission on Access to Justice has polled California legal aid programs, pro bono programs and pro bono lawyers from a cross section of law practice settings regarding development of a pro bono reporting system in California. Very few of the pro bono lawyers polled were in favor of adoption of a pro bono reporting system in California. Instead, the overwhelming majority of those polled were opposed to pro bono reporting. The Commission also learned there is a difference of opinion among leaders of California's legal services community on the benefits and drawbacks of any type of reporting system. Some legal providers believe that California could see an increase in pro bono from pro bono reporting requirements. Others have a significant concern that the potential benefits of pro bono reporting will not outweigh the potential negative impact. Those opposed are also concerned about the costs involved in developing, implementing and administering a pro bono reporting system as well as the potential diversion of efforts from the pursuit of other more productive goals.

Accordingly, the Commission does not recommend that California develop, adopt or implement a system of attorney reporting of pro bono. As part of our ongoing effort to increase access to justice in California, the Commission will periodically review information concerning experiences in other states, including those with pro bono reporting. As we learn more from other states' experience, we will work with key stakeholders, including legal services providers and lawyers from a diverse range of practice settings and geographic locations, to determine whether a pro bono reporting system could be successfully adopted and implemented in California in the future.

Other efforts to promote pro bono

Institutions, such as the State Bar, the Supreme Court, the Judicial Council, the Legal Aid Association of California, and the Access to Justice Commission can consider and pursue implementation of other incentives to increase pro bono legal services.

One possibility is the expansion of the State Bar's Emeritus Attorney Program to allow more attorneys to volunteer with legal services programs. There are growing numbers of lawyers retiring at a younger age who should be encouraged to volunteer in clinics and other programs aimed at low and moderate-income clients. These lawyers have decades of experience and belong to a generation with increased social consciousness, and would likely be willing to carry this into retirement. Similarly, there is a significant number of inactive lawyers who have elected to interrupt their legal careers in order to care for their young families but who intend to return to practicing law as their children grow. These lawyers could be encouraged to join the Emeritus Attorney Program and volunteer their services, allowing them to maintain their legal skills while primarily focusing on their family responsibilities. The Program regulations should be analyzed to see if the requirements present unnecessary barriers for these mid-career lawyers. This untapped resource would add an important pool of volunteer lawyers from which legal aid organizations, pro bono providers and other legal services could draw in order to increase the delivery of services to their client populations.

The institutions involved should consider greater efforts to recognize volunteers and contributors as an incentive to pro bono contributions. Also, the possibility of granting partial MCLE credit for pro bono-related activity should be analyzed. There are many training-related aspects involved with the recruitment, training and support of pro bono attorneys, and these aspects should be studied to be sure that appropriate MCLE credit is provided for training and organized mentoring activity. It is important that a system is not created that provides MCLE credit for the actual provision of legal services to low-income clients, since not only would it not fulfill the mandate of the MCLE requirement, it could also imply that serving the legal needs of the low-income community is "training" rather than the actual practice of law.

Many other incentives may be developed through the coordinated efforts of these groups, working closely with the regional pro bono campaigns that have been developed over the past few years, and are described in Appendix 8.

The private bar, through organized pro bono programs, should be encouraged to pursue impact litigation to help raise the profile of the issues involved. If the recommendation to regulate fraudulent legal aid agencies delineated in this plan is adopted, pro bono volunteers could lead the effort in the litigation against businesses that defraud low-income legal services consumers. This litigation could take advantage of the work already done in this area by Legal Aid Foundation of Los Angeles, the Legal Aid Society of San Diego, and Legal Services of Northern California that have successfully, albeit with only temporary impact as described below, sued these fraudulent agencies.

Law schools also play a crucial role in encouraging pro bono service from their students as well as promoting careers in the public interest and creating socially conscious lawyers committed to providing access to justice to the poor throughout their legal careers. In fact, the ABA Standards for Legal Education state that, as part of its curriculum, "[a] law school shall offer substantial opportunities for . . . student participation in pro bono activities."²⁵ In addition, the Standards emphasize the requirement that law schools ensure students receive substantial instruction in the responsibilities of the legal profession and of its members, which, under the ABA Model Rules of Professional Conduct Rule 6.1 includes the notion that pro bono work is essential to the justice system and the responsibility of every lawyer.



25. See ABA Section of Legal Education and Admissions to the Bar, Chapter 3: Program of Legal Education, Standard 302(b)(2) at <http://www.abanet.org/legaled/standards/chapter3.html>.

In spite of the fact that a growing number of law schools have increased pro bono involvement by their students and their faculty, only about 10 percent of law schools require any pro bono service by students, and at some of these schools, the amounts demanded are minimal. Law schools should provide their students with adequate resources, training, support and rewards for doing pro bono legal work. Surveys at several schools with pro bono requirements find that most students report that public service experience has increased their willingness to contribute pro bono service after graduation.²⁶

Law school clinical programs can be very effective ways to instill public service ideals and commitments, and also train students in crucial skills needed to work with clients—interviewing, working with interpreters, etc. To the extent possible, such clinical programs should involve real clients, not only because this helps fill real legal needs but also because of the greater impact on the students involved.



26. Deborah L. Rhode, "Cultures of Commitment: Pro Bono for Lawyers and Law Schools," 67 *Fordham L. Rev.* 2415 (1999)

Improving the Delivery of Legal Services: Increasing Resources in Rural Areas

I. INTRODUCTION

Rural California communities are home to some of the poorest people in the state. According to year 2000 census data, over 1.8 million Californians live in rural areas within 18 different counties. While these rural populations tend to have extreme poverty in common, it is important to note that “rural” does not define a single population. Within rural communities are migrant farm workers, American Indians and other populations that speak a variety of indigenous languages, Hmong and other Southeast Asian communities, fixed-income seniors, and many others.

Some of the poorest populations reside in the Central Valley, where the poverty rate in 2000 exceeded that of all but two states, West Virginia and New Mexico, and Washington, D.C. When the national unemployment rate was 4.4 percent, the unemployment rate in the Central Valley consistently ranged from 13 percent to 20 percent. The situation in the central California region is so dire that in 2005, Governor Schwarzenegger issued Executive Order S-5-05 noting both that the economic well-being of the residents of the Valley lags behind state and national averages, and that the area has historically received substantially less per capita funding than both national and state averages.

Although no area of the state has enough resources to fully serve the number of people who need legal services, rural communities are particularly stretched for resources. Rural populations have higher levels of poverty, and their comparatively sparse population results in fewer dollars being allocated to rural areas. Both federal and state legal aid funding are formulaically allocated based on the number of poor people within each county, and rural areas have both lower population numbers as well as have fewer private resources available to help fill the gap.

Lack of transportation, inadequate access to technology and law libraries, lower educational levels and lack of access to education, language issues, scarcity of law firm presence for pro bono, and physical barriers caused by geographic isolation, all make the delivery of legal services particularly difficult in rural areas. The diversity of needs within rural communities further exacerbates the problem. Within that diverse population, farm workers hold a particularly tenuous existence, where the geographic, cultural and linguistic needs create even greater isolation.

The Commission on Access to Justice and other leaders in the community recognize that the lack of resources in rural areas is a statewide concern. Statewide resources must be applied to develop and fund strategies to reduce the disparity in resources, including, but not limited to, increased staffing, creative ways to utilize technology, connection of urban volunteer attorneys to rural areas, and greater partnerships with the courts, law libraries, and other community partners, including local government.

Back on his feet to care for his family

Miguel is a single father of three and a CalWORKS recipient. At a legal aid outreach session held at the shelter where Miguel and his family were staying, Miguel learned that as a welfare-to-work participant he was eligible for supportive services such as child care, transportation, reimbursement for school books, and access to information in his primary language, Spanish. Armed with this information, Miguel decided to enroll in school part-time to become an electrician. When his Employment Specialist refused to grant him the childcare hours necessary for him to attend class, he contacted legal aid. The advocate was able to convince the Employment Specialist to give Miguel the supportive services he needed, including childcare, transportation, vouchers and food stamps. Today, Miguel has graduated from school, works as a contractor, and lives with his three children in their own apartment.

II. RECENT STATEWIDE SUCCESSES

There is substantial overlap between efforts to increase resources in rural areas, and efforts to increase resources and create partnerships generally. For example, the expanded use of new technology capabilities—such as resource and referral websites, form-completion tools for self-represented litigants, videoconference capability, use of radio and other media for outreach and to provide legal information, and web-based training—are important developments that have broad implications for improved service in rural areas.

Born of necessity, rural programs have developed many innovative programs and partnerships. Legal aid organizations not only provide legal services, but provide community economic development infrastructure for rural communities to increase capacity. Thus, legal aid organizations work with the organizing community to open facilities like homeless shelters and childcare centers. They also work with local government to provide such services as relocation assistance for renters displaced by enforcement activity, and outreach on Medicare Part D, fair housing, transportation and other issues.

The availability of court-based family law facilitators to serve self-represented litigants in all 58 counties, and the expansion of court-based self-help programs are important developments in efforts to provide legal assistance to people in rural areas who otherwise would have nowhere to turn. The expanding court-based programs for self-represented litigants serve both to increase service to people who need legal information, and to create an infrastructure for expanded partnerships with legal aid, bar associations and county law libraries to provide legal advice and assistance in innovative ways. While the importance of the resources for self-represented litigants is discussed in more depth in the section on Assistance for Self-Represented Litigants, it is important to note that court-based services for self-represented litigants are even more critical in rural areas.

III. RECOMMENDATIONS ON INCREASING RESOURCES IN RURAL AREAS

The Commission on Access to Justice is in the process of preparing a report to highlight the particular issues affecting rural resources. This report will focus understanding on the importance of the issue of barriers to access in rural communities. It will be available as authority to be cited and referenced in communications to foundations, the media and others. The report will also support efforts to develop standards for legal services in rural areas, and proposals to increase rural resources. Below are the primary recommendations which will be made in the rural resources report, and which we therefore incorporate in this Action Plan.

Recommendation 12.**Establish minimum access guidelines to be used as baseline for funding considerations.**

Every county in California receives LSC funding to provide a minimum level of legal aid services. However, this funding is vastly insufficient to ensure that the basic legal needs of a given rural community are met. Lack of funds forces many rural legal aid organizations to consolidate operations and shut down field offices, particularly given the relatively few people who live within traveling distance to remote rural posts. Because there is a lack of critical mass of poor people in any given county, funding based on per capita allocations makes it impossible to place an attorney to serve all the rural geographic regions. Even when organizations try to maintain field offices, they face recruitment, retention and program design problems. Yet, directors of legal aid programs state that staffing offices in rural but geographically accessible areas is their single most important priority and challenge.

Within the state, the Commission on Access to Justice and the Legal Aid Association of California (LAAC) should develop minimum access guidelines that can then be used as a baseline for finding funds. For example, the guidelines could call for minimum staffing levels per county, specifying the minimum number of attorneys or attorney-time per rural office. Funding for at least a minimum level of services should be ensured even in counties with no physical legal services office, to ensure clients in every county, regardless of whether there are staffed legal aid offices, are able to receive some adequate level of legal assistance. Such plans should take into consideration all resources available within the state, and within rural counties in particular, to provide legal services, including court-based programs, law library and community-based services.

Recommendation 13.**Prioritize funding of loan repayment assistance and scholarship programs to expand the number of lawyers in rural areas.**

The challenges legal aid programs face with recruitment and retention of attorneys can, in addition to increased funding, be addressed by providing further incentives for new attorneys, especially those who come from these areas themselves, to work in rural counties throughout California. As discussed under Recommendation 4 in the funding section of this Action Plan, we have long recognized that law students are often unable to go into public interest law due to the extent of their law school debt. This is even more of an issue in rural areas, where salaries trail behind the already-low urban legal aid salaries. The Legislature and LAAC must prioritize funding of Loan Repayment Assistance Program (LRAP), with a focus on rural attorneys, in order to significantly improve access in rural areas. The Legislature with input from LAAC should also consider replicating the medical model of providing full scholarships to students who commit to serve in rural areas upon graduation.



IV. ADDITIONAL IDEAS FOR CONSIDERATION IN THE DELIVERY OF RURAL SERVICES

Statewide leaders need to continue to support rural programs in developing funding, expanding pro bono, and providing technical assistance. For example, new funding for a statewide multi-lingual rural hotline for brief advice and referral could address a portion of the needs within rural communities, much like the Legal Services of Northern California Senior Hotline provides brief advice statewide for that population. Extensive outreach would need to be conducted to disseminate the hotline number and its availability throughout low-income communities. As will be further discussed in the technology section of this plan, an analysis of the type(s) of hotlines needed, especially with regard to issues such as rural communities and language access, should be part this effort.

Pending significant new funding, expanded partnerships continue to pose the greatest potential for increasing resources in rural areas without taking needed dollars from urban areas. Partnerships and collaborations with urban legal aid programs can also help rural programs to secure funding through grant opportunities, historically out of the reach of rural agencies. In addition to forging new partnerships between rural legal aid programs and urban lawyers (private and legal aid), we need to consider and model current best practices of forming creative partnerships within the rural communities with local government, courts and community-based organizations.

Although residents in rural areas may lag behind urban residents with regard to the use of technology, internet and web-based legal resources, expanding technology would allow legal providers in rural areas to maximize the reach of their limited resources, as is more thoroughly discussed in the technology section of this Action Plan. Resource and referral websites, video conferencing (including interpreter services via videoconferencing), translation software, and web-based assistance and training would have a significant positive effect in improving service in rural areas. However, it is important to emphasize that, though critical for increasing efficiency and maximizing resources for legal services programs, technology is, particularly in rural areas, not as effective for the actual litigant, and cannot substitute for the in-person assistance of lawyers and legal service providers.

Improving the Delivery of Legal Services to the Poor: Preventing Fraud by Organizations Claiming to be “Legal Aid”

I. INTRODUCTION

When people are sued or need legal advice, they are commonly directed to “legal aid” agencies in court forms and by court staff, by information and referral lines, or by word of mouth. Indigent people sued for eviction, divorce, debt collection, or car repossessions, believe that by contacting “legal aid” they are reaching out to the proper agency that will assist them for no or low fees. Unfortunately, because the term “legal aid” is not regulated, anyone can use it as part of their business name. The result is that unscrupulous people create companies named “legal aid” and take advantage of the widely held belief that “legal aid” is the place that low-income people in legal need should turn to. Other vulnerable groups such as immigrants are similarly exploited, both because they are often unfamiliar with the American legal system and because they are unlikely to approach law enforcement agencies to report abuses.

These companies defraud our state’s most vulnerable populations at a very precarious time in their lives. They take large deposits and fail to file responsive pleadings essential to protect critical rights; they overcharge for services; and they charge for services that could be obtained at no cost.

The harm caused by these fraudulent practices has consequences far beyond the harm they directly inflict on the consumers who employ their services. By presenting themselves as “legal aid” and then not fulfilling their promise and overcharging clients, these businesses cause the public to distrust legal aid agencies generally, not realizing that these for-profit businesses are not true legal aid organizations. This distrust can have far reaching effects if the poor do not seek the assistance of legal aid under the belief that it will cost them money they do not have and will not adequately assist them with their legal problems.

Currently, there is no way to control directory assistance referrals to these “legal aid” listings, and even successful lawsuits against these businesses only result in temporary abatement, as they simply change the name and location of their operations to continue these fraudulent practices.

Unscrupulous people create companies named “legal aid” and . . . defraud our state’s most vulnerable populations at a very precarious time in their lives.

II. RECENT STATEWIDE SUCCESSES

California legal aid programs have successfully sued fraudulent legal aid businesses. In 2003, Legal Services of Northern California filed and won a case against a Modesto businessman who advertised his for-profit services as “legal aid” throughout the state, in the yellow pages and his website. Plaintiffs were several consumers who

had contacted his agency believing that they offered services to low-income people. Instead, defendant charged fees and did not provide the promised services, to the detriment of the clients. The court issued a statewide injunction prohibiting the defendant and his partners from using the names “legal aid,” “legal services,” or “legal aid services.” The California Department of Justice filed an amicus brief in the case in support of the plaintiffs in the appellate case.

The following year, the Legal Aid Foundation of Los Angeles (LAFLA) sued California Law Clinic (CLC) that was doing business as “legal aid.” LAFLA obtained a judgment against the CLC preventing them from using the name “legal aid,” and finding that LAFLA had a common law trademark in the name. As a result, CLC was put out of business.

However, even when successful, litigation only results in temporary abatement as these businesses simply change the name and location of their operations to continue to defraud the public.

In addition to this litigation pursued by legal services programs, the District Attorney’s offices in at least one or two counties, recognizing the harm to consumers, have worked with legal aid to pursue these companies for fraud perpetrated upon California consumers.

III. RECOMMENDATION ON PREVENTING FRAUD BY ORGANIZATIONS CLAIMING TO BE “LEGAL AID”

Recommendation 14.

Consider legislation to regulate the use of the term “Legal Aid.”

Lawmakers should evaluate whether California can regulate the term “legal aid” similarly to the existing regulation of immigration consultants, under Business and Professions Code §§ 22440-22448 (enacted in 1986 with subsequent amendments), and paralegals under Business and Professions Code §§ 6450-6456 (enacted in 2000). The B&P Code defines and regulates immigration consultants and paralegals, restricting the terms they use to define themselves or to describe their services in order to protect consumers from being misled.²⁷

A statute limiting the use of the term “legal aid” to nonprofit organizations that provide free or sliding scale services to low-income, indigent, seniors, and people with disabilities, would take the term “legal aid” out of the public domain, thus restricting its use and making it easier to prosecute fraudulent organizations. As a result, low-income Californians in need of legal services would be able to clearly identify, and receive assistance from, legal aid agencies protecting both consumers and legal aid programs themselves.

Once regulation is in place, pro bono organizations will be able to enlist the help of the private bar to pursue litigation against fraudulent businesses. It will help raise the profile of this issue, as well as bring needed resources to the effort to combat these practices that take advantage of our most vulnerable populations. And, due to the broader applicability of the legislation, this litigation can have more meaningful success than the current litigation that, as described above, only stops the fraudulent practices temporarily, until a given business changes their name and location.

27. Business and Professions Code § 22442.3. An immigration consultant shall not, with the intent to mislead, literally translate, from English into another language, the words or titles, including, but not limited to, “notary public,” “notary,” “licensed,” “attorney,” “lawyer,” or any other terms that imply that the person is an attorney, in any document, including an advertisement, stationary, letterhead, business card, or other comparable written material describing the immigration consultant.

Improving the Delivery of Legal Services to the Poor: Technology

I. INTRODUCTION

Use of technology is now fundamental to every aspect of law practice management, including document creation, case management, information-sharing on the internet, and legal research. Legal aid organizations need to continue to figure out ways to harness these technology tools, both to make the best use of technology and to leverage or free up other resources to provide representation to as many people in need of legal services as possible. Moreover, within the legal aid community, technology has another critical role—filling the gap for self-represented litigants who have no access to professional services. While it is important to recognize that technology may not always be as effective for the actual litigant as it has proven to be for the service providers, and it cannot replace the in-person assistance of legal service providers, the use of technology has an enormous potential to transform the delivery of legal services and increase opportunities and eliminate barriers to access to justice.

Unfortunately, for many legal aid organizations the scarcity of resources makes exploring new technologies to improve and expand the delivery of legal services a distant priority. While large private companies can invest dollars in critical “research and development,” few within the legal aid community have the resources to commit to that need.

Organizations that have allocated resources to develop technologies with specific applications for serving low-income populations demonstrate how technology, harnessed effectively, can expand access to justice. I-CAN!, created by the Legal Aid Society of Orange County, EZLegalFile, created by the San Mateo County Court, and HotDocs, part of the National Document Assembly Server project, all help self-represented litigants fill out standardized legal pleadings and other forms in a variety of substantive areas. The I-CAN! EIC (Earned Income Tax Credit) program enables low-income workers to prepare, file or e-file federal and state taxes without charge, and enables them to claim the EIC credit as well as other relevant credits. Last year, I-CAN! EIC enabled Californians to recover \$3 million in tax credits.

Another highly successful technology, Geographic Information System (GIS) mapping, is generally recognized as one of the most powerful planning and reporting tools available to portray and analyze service data. “Legal Genie,” another project of the Legal Aid Society of Orange County, is used to facilitate private attorney involvement by enabling attorneys at virtually any location to log in to review a pleading and advise a client by phone or video conference and has broad implications for serving modest-means clients.



Use of technology is now fundamental to every aspect of law practice management, including document creation, case management, information-sharing on the internet, and legal research.



Expanding these and other innovative tools will allow programs to use technology to meet the legal needs of many of the unrepresented litigants who can be effectively and efficiently assisted through technology, while freeing scarce resources to assist those for whom technology may not be appropriate or sufficient. Unfortunately, even to the extent that innovative technology tools are developed, those tools often are not adequately funded to enable development to their fullest potential or to allow for their widespread promotion and adoption.

The Public Interest Clearinghouse with the Commission on Access to Justice formed the CalJustice Technology Advisory Committee (CalJustice Committee) to coordinate within the state the development of innovative technologies to increase access to justice. Informed by events such as the 2004 *National Conference on Community Based Access to Justice*, co-sponsored by the Administrative Office of the Courts and others, this volunteer committee shares information on technology developments and guides specific technology-driven collaborations, such as the statewide websites. However, the committee's broader vision to coordinate the design, development, evaluation and deployment of a range of technology-enabled projects remains largely unmet due to lack of resources.

As a community, we need to allocate resources to the application of new technologies in the delivery of legal services. Specifically, technology tools must continue to be developed and assessed to determine where technology should be replicated by other programs throughout the state as part of a coherent system of statewide resources. Once these tools are in place, additional resources must be allocated to train advocates throughout the state in the application and usage of those tools.

II. RECOMMENDATIONS ON TECHNOLOGY

Recommendation 15.

Strengthen the statewide technology infrastructure to facilitate broader and more effective development of new delivery mechanisms.

The development and expansion of technology tools is not yet adequately funded in California. This need presents itself in a variety of ways:

Apply Existing Technology. The legal services community needs to benefit from the plethora of existing technologies that are being used successfully in other areas, such as healthcare access. While legal aid organizations cannot always afford to be at the cutting-edge of new technologies, they must evaluate and adopt those existing tools that will save time and money and expand services to clients.

Expand Successful Tools. Tools that have already shown their utility in the legal aid and self-help arena should be put in place to benefit clients who can be effectively assisted by this technology, while freeing scarce resources to assist those for whom technology may not be appropriate or sufficient.

Ongoing Collaboration. There must be ongoing discussions and communication to involve the entire legal services community regarding technology development. Particularly, once tools have been tested and proven effective, organizations throughout the state must be given an opportunity to decide whether the tools are appropriate for use by their clients and advocates. Programs need to be able to make informed decisions about resource allocation and how technology fits within service delivery to their constituents.

Recommendation 16.

Ensure that LawHelpCalifornia.org and other websites are treated as a core component of the state's legal services delivery system.

Recently the National Association of IOLTA Programs (NAIP) researched the utility and sustainability of statewide websites. In a report including 28 findings and 60 recommendations, NAIP concluded that a quality cost-effective comprehensive delivery system cannot exist without a major web component. Web components offer the only realistic possibility to be the 'spine' of the 21st century delivery system, tying together intake, triage, referral, information, advice and support. States across the nation, including California, acknowledge the importance of statewide websites for client referral, while struggling to find adequate resources to ensure that the websites are developed and maintained for full effectiveness.

For these reasons, the NAIP report's first recommendation, and therefore a recommendation of the Commission on Access to Justice in this Action Plan, is that websites should be treated as a core component of the delivery system, one for which the funding, management, operation, marketing, and sustainability are a statewide responsibility.

California needs to ensure sufficient funds are committed to support the resource and referral website at LawHelpCalifornia.org and other crucial websites discussed in other sections of this plan, such as the *California Court's Online Self-Help Center* (www.courtinfo.ca.gov/selfhelp) and its Spanish counterpart *Centro de Ayuda de las Cortes de California* (www.sucorte.ca.gov), which together provide litigants with information and resources regarding California law and the court system, as well as court forms, referrals and other assistance.

As technology increases our reach, our vision of "community" can be expanded. Thus, through such websites as www.CALegalAdvocates.org, we can realize the vision of an expanded community with shared resources and greater collaboration with legal services, court services, pro bono attorneys, law schools, law libraries, urban and rural counties, and others. Shared websites must be used to reduce duplication of efforts. Together, all these sites provide information to coordinate the best practices of legal advocates throughout the state, including up-to-date information and news, legal services delivery developments, training calendars and a library of client materials, practice guides and other resources.

Recommendation 17.

Support the expansion of the use of hotlines as an effective way to route client calls to the appropriate local legal services provider.

Key partners throughout the state should analyze what type of hotline (or hotlines) would be most effective in reaching out throughout the state or regions of the state, taking into consideration issues such as the type of assistance that could be provided via phone, and the needs of different communities such as rural communities, non – or limited-English speakers, etc.

The Hernandez family, Spanish speaking and low income, went to the self-help center for assistance with a car accident case. They had been trying to settle with the insurance company themselves, but had not got anything resolved. The statute of limitations was going to run out the next day. The children had been hurt in the accident and needed a lot of medical care, causing the settlement and final damage determination to drag out so long. The Center helped them complete and file their complaint. Without the help of the Center, they would have lost their cause of action entirely.

As discussed in the previous section of this Action Plan, by instituting a strong measure of quality control in statewide referrals to legal aid, these hotlines would also address the problems presented by the increasing number of for-profit companies that use the term “legal aid” in their name to take advantage of our state’s most vulnerable populations, who mistake these organizations for true legal aid agencies. Thoughtfully designed hotlines with a strong measure of quality control would ensure that Californians in need of legal assistance are directed to legitimate legal aid programs.

The State Bar, the Commission on Access to Justice, the Administrative Office of the Courts and legal aid organizations should support local pilot projects and regional efforts to determine the feasibility, efficiency and effectiveness of multi-lingual hotlines.

III. ADDITIONAL IDEAS FOR CONSIDERATION REGARDING TECHNOLOGY

Other technology tools for development include: 1) increasing the network of video-conference capability to reduce travel between sites, both for communication between programs and offices, statewide training, and potential expansion of pro bono resources; 2) increasing the use of web-based trainings to conduct multi-site simultaneous training and conferencing; 3) expanding capability to participate in cable access television for public broadcast of community education material and communication about legal services availability; 4) developing technology to help litigants and 5) providing resources to attorneys to educate them and inform them of the pro bono opportunities in their areas, and provide them with training and support in specialized areas of law.



Assistance for Self-Represented Litigants

I. INTRODUCTION

In February 2004, the Judicial Council adopted a “Statewide Action Plan for Serving Self-Represented Litigants” aimed at improving access to justice and the quality of court services, as well as increasing court efficiency and effectiveness. At that time, over 4.3 million court users in California were self-represented, including approximately 70 percent of family law matters, 34 percent of landlord-tenant filings (close to 90 percent considering tenant filings alone) and 22 percent of all probate cases, including guardianships and conservatorships of the person. The plan recognizes that services for self-represented litigants must be a core function of our courts if they are to address the growing and changing legal needs of Californians.

At the center of this plan, the Judicial Council recognized court-based staffed self-help centers, supervised by attorneys, as the optimum way for courts to facilitate the timely and cost-effective processing of cases involving self-represented litigants while increasing meaningful access to the courts. They save time in the courtroom, reduce inaccurate paperwork, minimize unproductive court appearances, expedite case management and dispositions, promote settlement, and increase the court’s overall ability to handle its entire caseload. Similarly, they improve the public perception of our courts, as these centers help self-represented litigants engage more meaningfully in our legal justice system.

The reality for most California families facing eviction, parents threatened with loss of custody, and others in dire need of legal help is that they are often unable to afford an attorney and have nowhere else to go for help when turned away by legal services agencies due to their own limited resources. Court-based self-help centers can serve the critical function of providing legal information as well as referring people to other services if they are not good candidates for self-representation for reasons of skill, complexity of the case, or language ability.

Self-help centers are a key component of the continuum of legal services that is coordinated throughout the state, partnering and collaborating with other service providers in their community to ensure that individuals in need are directed to the service that can best provide the assistance they require.

II. RECENT STATEWIDE SUCCESSES

The California courts, under the leadership of the Judicial Council, have been national leaders in their visionary response to the increasing numbers of self-represented litigants. Effective January 1, 1997, the California Family Code established the Office of the Family Law Facilitator in each of the state’s 58 counties, after the success of pilot projects in San Mateo and Santa Clara. With federal and state funds administered by the Judicial Council, all counties are able to provide court-based legal information and guidance from experienced attorneys with child

Over 4.3 million court users in California were self-represented, including approximately 70 percent of family law matters, court-based staffed self-help centers, supervised by attorneys, as the optimum way for courts to facilitate the timely and cost-effective processing of cases involving self-represented litigants while increasing meaningful access to the courts.



support, paternity and health insurance. Subsequently, most courts have provided additional funding to enable facilitators to assist self-represented litigants with other family law issues, such as custody and visitation, divorce, and restraining orders. Customer satisfaction with Family Law Facilitators is extremely high, and the resulting improvements in court efficiency have earned facilitators the praise of judges, and encouraged bar support for the facilitator program and other self-help efforts.²⁸ Family Law Facilitators assist over 450,000 litigants each year in California and have become the backbone of self-help services throughout the state.

In 1998, the California legislature funded three pilot Family Law Information Centers, in Los Angeles, Fresno and Sutter counties, to assist self-represented litigants to navigate the rules and procedures of the family court system, and better understand and access their rights and remedies, as well as their obligations. The final evaluation of this pilot project in March 2003 again demonstrated the significant success of these court-based centers in improving the administration of justice for both the public and the court.²⁹

In 2001, the Legislature provided funding for five pilot self-help centers to determine the ability of court-based self-help programs to effectively meet major challenges facing our courts and to provide information to the legislature on future funding needs. Each of the five pilot projects was designed to focus on a particular challenge in the delivery of services. The projects are:

- Technology (Contra Costa)
- Spanish-speaking (Fresno)
- Multi-lingual (San Francisco)
- Rural collaboration (Butte, Glenn and Tehama)
- Urban coordination (Los Angeles)

The Judicial Council provided a final report evaluating these 5 projects to the Legislature on March 2005.³⁰ The report found that self-help centers offer a valuable method for providing services to those who need to access legal information, improve court efficiency, help courts design systems to serve self-represented litigants more effectively, meet significant needs for legal services in their communities, and have the ability to meet the needs of many non- or limited-English speaking litigants. These projects continue to operate and grow with support from local courts and partnerships with other legal service providers. They are serving as models for replication throughout the state and have produced numerous translated materials and technological solutions to the delivery of services to self-represented litigants.

The judicial branch has demonstrated its commitment to expanding self-help programs by making them one of the top three priorities for funding in 2006. As a result, \$8.7 million will be allocated to the programs in the coming year allowing each court to start or expand a self-help center. As the first state in the country to make this commitment, the judicial branch should be commended for this action.

Local governments should also be recognized in counties such as Los Angeles and San Francisco, where the Boards of Supervisors, have provided additional county funding for court-based self-help centers to provide additional services to their communities.

28. *California's Child Support Commissioner System: An Evaluation of the First Two Years of the Program*, Administrative Office of the Courts, May 2000, available at <http://courtinfo.ca.gov/programs/cfcc/pdffiles/cscr2000.pdf>.

29. *Family Law Information Centers: An Evaluation of Three Pilot Programs*, Administrative Office of the Courts, March 2003, available at <http://www.courtinfo.ca.gov/programs/cfcc/resources/publications/FLICrpt.htm>.

30. *Model Self-Help Pilot Programs - A Report to the Legislature*, Administrative Office of the Courts, March 2005, available at <http://www.courtinfo.ca.gov/programs/qualaccess/mod-elsh.htm>.

However, as detailed below, after a needs assessment requested by the Judicial Council, local courts reported a need for over \$44 million in on-going funding for self-help services. The legislature, executive and judicial branches should work together to obtain this critical funding.

In order to make scarce resources stretch as far as possible, many courts have formed collaborations and partnerships with local legal services programs, bar associations and county law libraries to provide or expand on self-help assistance in innovative ways.

Significant amongst these partnerships are those funded through the Equal Access Fund created by the legislature, and administered by the Judicial Council. The Fund provides \$10 million to IOLTA-eligible legal services programs, 10 percent of which must go to “partnership grants.” These partnerships involve legal services working with their local courts to provide self-help assistance at the courts allowing legal services programs and the courts to identify the more critical legal needs in their communities and work together to resolve them. The recent March 2005 evaluation and report to the legislature on the Equal Access Fund partnership projects details the tremendous success of these partnerships; these partnerships represent significant progress in providing access to those who would otherwise not be able to access legal services.³¹ With 10 percent of the projected \$5 million raised from the allocation of court filing fees to the Equal Access Fund becoming available for partnership grants in the coming year, courts and legal services programs will continue to be able to work on innovative ways to deliver legal services in their communities.

Technology has also become key in the improvement of the delivery of legal services to self-represented litigants. Particularly worthy of highlighting is the award-winning *California Courts Online Self-help Center* at www.courtinfo.ca.gov/selfhelp (www.sucorte.ca.gov in Spanish) established by the Judicial Council’s Administrative Office of the Courts. The online self-help center provides over 1,000 pages of legal information and referrals in both English and Spanish, and helps over 4 million individuals each year. In addition, as detailed under technological successes in the prior section, software programs that allow litigants to prepare their pleadings online or with staff support from self-help centers provide convenient assistance for many people. Further, with the use of videoconferencing and telephone support for website usage, self-help centers are expanding to serve broader geographical areas and minimizing the need for litigants to travel to distant locations. Through a coordinated schedule, clinics offered through courts and legal services programs can be broadcast statewide in various essential subject matters.

Recently, the Judicial Council has been working on developing minimum standards for self-help centers in the state as well as creating a bench guide for judicial officers to handle cases and calendars with self-represented litigants. It is anticipated that the establishment of minimum standards will provide for greater uniformity in services and will facilitate the evaluation of the extent of assistance that is being provided to self-represented litigants. The bench guide serves to educate judicial officers in the particular issues, challenges and rewards involved in presiding over cases where one or both parties are self-represented, providing sample scripts, suggestions for handling different subject matters and procedural issues, and information for ensuring judges are culturally competent and aware of the issues posed by language barriers.

31. *Equal Access Fund - A Report to the California Legislature*, Administrative Office of the Courts, March 2005 available at <http://www.courtinfo.ca.gov/programs/equalaccess/eaf.htm>.

Courts must be able to rely on stable funding for self-help services.

III. RECOMMENDATIONS ON SELF-REPRESENTED LITIGANTS

The Legislature has acknowledged the important role of self-help centers, working with the Judicial Council to ensure adequate funding for these centers. These successes make California a national leader in the provision of self-help assistance for otherwise unrepresented litigants. To continue this leadership role, it is imperative that the “Statewide Action Plan for Serving Self-Represented Litigants” be fully implemented. Our recommendations reflect the priorities that the Judicial Council and the Legislature must address in order to implement Judicial Council’s Statewide Action Plan. The implementation of the recommendations below must be informed and led by the Judicial Council’s Task Force on Self-Represented Litigants, using its Statewide Action Plan, as the state’s leading agency addressing the needs of self-represented litigants in California.

Recommendation 18.

Ensure staffed self-help centers are available in every county.

In order to improve true access to justice for the public and expedite the processing of cases involving self-represented litigants, the Judicial Council and the Legislature should work to provide staffed court-based self-help centers throughout the state. Each one of the state’s 58 counties should have attorney-supervised centers, available to all self-represented litigants in civil proceedings to obtain legal information and education on the legal system and the legal issues in their case and, where appropriate, referrals to other agencies or services that can better meet their needs.

In addition, as demonstrated by the success of the Equal Access Fund partnership grants, these court-based self-help centers can and should continue to coordinate self-help services with legal aid programs wherever feasible in order to guarantee that individuals are provided the most appropriate level of service they require in any given situation. This coordination and partnership will ensure that communities can provide the full continuum of legal services for their residents.

Recommendation 19.

Pursue stable and adequate funding for self help services.

In addressing the critical need of courts to effectively manage cases involving self-represented litigants, while providing maximum access to justice for the public, courts must be able to rely on stable funding for self-help services.

Recently, the Judicial Council allocated \$8.7 million to allow courts to establish or expand self-help assistance. Recognizing the great need for services in rural areas, it provided a minimum of \$34,000 per county for 12 hours of an attorney’s time providing self-help services at the courthouse. Although many courts have been able to expand their Family Law Facilitator services to offer help with more family law issues, few courts are able to provide civil self-help assistance.

While the current allocation will provide a minimum baseline for some degree of services in every county, courts have identified a need for \$44 million in order to adequately staff self-help programs with attorneys and non-attorney staff. These planned programs provide the diversity of services required by their customers, namely, all types of family law issues, guardianship, domestic violence,

conservatorships, simple probate issues, landlord tenant issues, debt collection, small claims, traffic, and other civil issues. The services include individual assistance, workshops, informational materials, translations, courtroom help, mediation, community outreach and others. Further, courts identified one time cost needs of almost \$4 million, primarily needed for facilities and equipment.

The Judicial Council, Executive Branch and Legislature should continue the exploration and pursuit of stable funding strategies to ensure local courts are able to meet the needs of their communities.

Recommendation 20.

Pursue strategies to remove unnecessary barriers to access for self-represented litigants.

Our legal system, rules and procedures were designed to be navigated by lawyers. However, given the reality of the large numbers of self-represented litigants accessing our courts, these very rules and procedures act as barriers to justice for a large percentage of the public.

As the Judicial Council’s 2005 “Trust and Confidence in the California Courts” survey evidenced, procedural fairness is the most important factor in the public’s positive perception of our court system. In fact, “[h]aving a sense that court decisions are made through processes that are fair is the strongest predictor by far of whether members of the public approve of or have confidence in California courts.”³²

Tremendous strides have been made toward the goal of simplifying procedures for self-represented litigants. The extensive work of the Judicial Council to simplify many of its forms into plain language has resulted in improved access and these forms serve as a national model. By eliminating legalese and archaic jargon, rewriting legal concepts in clear terms, and revising official instructions to be accessible to people with the average literacy level in our state, the Judicial Council has made the process significantly easier for those facing the court system without an attorney. Not only do these plain language forms and simplified instructions improve access by self-represented litigants, but they also allow for more accessible translations of these forms, concepts and instructions into other languages.

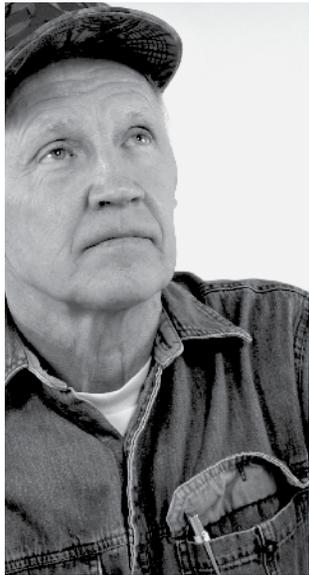
Much more work remains to be done, however, to continue to simplify not just the hundreds of Judicial Council-approved court forms and instructions, but the myriad court rules and processes designed for lawyers and other legal professionals. Many court procedures can be modified to make the courts more accessible to the growing numbers of self-represented litigants, without altering the substantive rule of law and while still safeguarding the integrity of the judicial system.

It is also important that the continued efforts to simplify the legal process include information and direction to litigants to ensure that they clearly understand that there are steps they (and not the courts) must take, after initial filings to obtain a final judgment and exit the system.

In order to continue to improve access to the judicial system for all Californians, and particularly self-represented litigants, the Judicial Council should work with local courts, the State Bar, legal services programs and other stakeholders to undertake an analysis of local and statewide rules and procedures that may cause undue barriers to access.

Victoria, a young mother, came to her court’s Family Law Information Center (FLIC) to give custody of her baby to her best friend. She had just learned that she was in an advanced stage of cervical cancer and was not expected to live much longer. The baby’s father was deceased and the only living relatives were her parents, both drug addicts. She was extremely worried that if she passed away, her baby would end up with her drug-using parents or in foster care with strangers. The FLIC helped her file her documents, and the court granted her request. Approximately seven weeks later, she passed away but her baby was well-cared for with her friend.

³² *Trust and Confidence Survey* at 7.



Expanding Language Access

I. INTRODUCTION

In September 2005, the California Commission on Access to Justice published a comprehensive report on language issues in the California courts entitled “Language Barriers to Justice in California.” The Commission’s Language Report highlights the dramatic disproportion between the demand for language assistance in judicial proceedings and the personnel and resources available to meet that need, and recommends comprehensive solutions to this problem. The recommendations in this section conform to those in the Commission’s Report. The evidence and findings supporting the recommendations are set out in detail in the Language Report and are summarized below.

California has the most foreign-born residents in the United States, both numerically and as a percentage of its population: over a quarter of Californians—almost nine million people—are foreign-born.³³ Many Californians who speak other languages are also proficient in English, but many are not. Roughly 20 percent (almost 7 million) speak English less than “very well”—the minimum threshold for meaningful participation in a judicial proceeding—and almost 5 percent speak no English at all.

These demographic developments have fueled an enormous demand for interpreter services and other language assistance in the courts. Millions of Californians are involved in judicial proceedings every year, and a growing number are without attorneys. Those with limited English proficiency face almost insuperable barriers to access to the courts – they cannot understand pleadings, forms or other legal documents they receive, cannot communicate effectively with clerks or other court personnel, and cannot participate meaningfully in court proceedings without a qualified interpreter.

For limited-English speakers who are foreign-born, language access is just one barrier. They are also likely to be less familiar with the legal system generally. This unfamiliarity may result in self-imposed barriers to utilizing the legal system to seek justice, enforce legal agreements, and obtain other relief, including protective orders in domestic violence cases.

Although the California Constitution explicitly provides for the right to an interpreter in criminal proceedings, no such right has been recognized in civil actions, with a few exceptions.³⁴ AB 2302, introduced by the Assembly Judiciary Committee under the leadership of Assemblymember Dave Jones would have recognized the right to court-paid certified interpreters in civil proceedings; it passed the Legislature but was vetoed by the Governor in September 2006. In a related veto message accompanying the veto of a \$10 million budget augmentation for court interpreters in civil cases, the Governor stated: “... I believe it is essential to provide non-English speaking litigants with interpreters in order to provide meaningful access to our justice system, and as such, I expect that the Judicial Council will identify efficiencies and best practices, and will, to the extent possible, expand the use of interpreters in civil cases using existing resources.”

Roughly 20 percent (almost 7 million) speak English less than “very well” – the minimum threshold for meaningful participation in a judicial proceeding – and almost 5 percent speak no English at all.

33. U.S. Department of Commerce, Census Bureau, 2000 Census, Summary File 3, Table P21.

34. In civil proceedings, California law provides the right to an interpreter only in a small subset of actions, including small claims, domestic violence, parental rights and divorce or separation when a protective order is involved.

In the few instances when the right to an interpreter exists, it is subject to available funding, but adequate funding has not been available. As indicated above, recent efforts to increase funding in the judicial budget for interpreters have been unsuccessful. Although the Governor's proposed 2006-2007 budget strongly affirmed the importance of providing professional interpreters in civil cases and the Legislature subsequently included \$10 million in the budget specifically to this end, the Governor deleted this funding indicating that the interpreter need should be funded from existing judicial resources. Unfortunately, the Court's budget—even when supplemented by State Appropriations Limits (SAL)—cannot meet the need for court interpreters in civil cases.

As recently as December 19, 2006, in his annual meeting with reporters who cover the state Supreme Court, California Chief Justice Ronald M. George recognized the need for court interpreters in civil matters when he stated that in addition to the pilot project discussed in the funding section of this action plan, he may advocate for another three-county pilot project to pay for court interpreters in civil cases that involve basic rights.

Even if there were a legal right to an interpreter in civil proceedings and adequate funding, as things currently stand, there are simply not enough qualified interpreters available. Despite the substantial increase in the demand for their services, the availability of qualified court interpreters has actually declined in recent years. Between 1995 and 2002, the number of certified court interpreters went down by almost 37 percent (from 1,675 to 1,108). Significant efforts are under way to attract more individuals to careers as court interpreters.

Under these circumstances, courts and litigants often have no choice but to rely on untrained interpreters—family, friends, bystanders and even children—to communicate. Given that effective court interpretation requires substantial training and experience, this should be discouraged as an inappropriate, and potentially harmful albeit well-intended, substitute.

Barriers to access to justice associated with language difficulties pose a significant threat to the judicial system. The Judicial Council's 2005 "Trust and Confidence Survey" indicates that a substantial majority of Californians (regardless of English proficiency) believe that non-English speakers who are able to access the courts fare less well than English speakers. Over 65 percent of respondents believe that non-English speaking litigants receive worse results in court proceedings than other litigants.

A significant erosion of public trust and confidence in the fairness of the courts, either by litigants with limited-English proficiency or by the public as a whole, threatens the future legitimacy of the legal system. Anecdotal information and surveys, including the recent Judicial Council Trust and Confidence Survey, show that many limited-English speakers simply forego their rights rather than attempt to overcome this challenge. As a result, in civil judicial proceedings that most affect peoples' basic needs, they are unable to effectively present their cases or protect their legal rights.

Given that courts are often the only source of protection against such abuses as consumer fraud, employment and housing discrimination and others, state and federal laws intended for the protection of vulnerable groups against these abuses can be rendered meaningless for limited-English speakers.

Many court procedures can be modified to make the courts more accessible to the growing numbers of self-represented litigants, without altering the substantive rule of law and while still safeguarding the integrity of the judicial system.

Barriers to access to justice associated with language difficulties pose a significant threat to the judicial system. Over 65 percent of respondents believe that non-English speaking litigants receive worse results in court proceedings than other litigants.

Father reunited with his children

Tom's wife moved out of their home and abducted their children. After tracking her as far as Utah, he went to a court self-help center for assistance and obtained the necessary documents to file for custody as well as information regarding the D.A.'s Child Abduction Unit. Months later, a child abduction agency had located the mother in a Chicago jail, and Tom's children were with his wife's sister. With this information, Tom was able to get temporary custody of his children, giving the D.A. the authority to go to Chicago and return the children to their father.

II. RECOMMENDATIONS ON EXPANDING LANGUAGE ACCESS

Recommendation 21.

Guarantee qualified interpreter services in civil proceedings.

Civil litigants who are unable because of language proficiency to fully understand and participate in the proceedings should have the right to a qualified interpreter at all stages of the proceedings irrespective of financial means. The Judicial Council should work with the Governor and the Legislature to ensure that adequate funding is provided to make this a reality.

The implementation of this recommendation would likely be incremental and funding for all civil interpreter needs throughout the state will only become available over time. The Commission realizes that courts, no matter how committed to meeting the language needs of litigants, face overwhelming challenges given the disproportionate need for interpreters vis a vis the number of interpreters and the funding available for their services. However, it is critical that access to court certified interpreters be recognized as a universal right in our judicial system. An immediate step toward this goal at a time when resources are limited is to establish pilot projects for court interpreters in civil cases involving significant legal rights. Pilot projects will allow a selected sample of courts to assess the need for interpreters in civil cases, examine ways of maximizing the use of existing interpreters through calendar management, and determine what it would take in terms of both funding and interpreters to provide adequate interpretation services. This approach will help ensure that funds are expended and available interpreters used in the most efficient and effective manner to achieve the goal of providing qualified interpreters to meet the need.

Recognizing the significant logistical and financial obstacles to making the goal of providing qualified interpreters in civil matters a reality, it is critical that local courts are involved with the decisions about how the limited court-interpreter resources can be implemented locally to address the highest need in the most effective manner.

Recommendation 22.

Develop policies and procedures to improve language access.

This recommendation includes a range of issues for consideration by the Judicial Council as part of its ongoing effort to achieve full language access. The Judicial Council should determine how best to delegate development of proposed policies and materials so as to achieve the following recommended goals:

- a. Provide training and resources to court staff and judicial officers in order to give them the tools to recognize situations in which a litigant does not have the sufficient English proficiency to understand any aspect of the court process. This training should include cultural competency, immigration-related issues, information on language appropriate resources, options for addressing limited-English speakers, steps to follow to ensure access for limited-English speaking litigants, and multilingual materials to provide to the public with answers to frequently asked questions. Further, educational and training materials for court personnel should include guidelines for the role that a litigant's immigration status has, or typically, does not have, in state courts.

Civil litigants who are unable because of language proficiency to fully understand and participate in the proceedings should have the right to a qualified interpreter at all stages of the proceedings irrespective of financial means.

- b. Expand pilot self-help Spanish and multi-lingual centers, based on recommendations from the Report to the Legislature on these pilot programs.
- c. Compile existing data and conduct additional research to accurately gauge the extent of the unmet need and develop appropriate solutions. Research will help identify key points of contact with the court system at which limited-English speakers are in greatest need of assistance, and prioritize which unmet needs are most critical and where, with limited resources, interpreter services should be prioritized.
- d. Continue to expand and translate information on the California Court's Online Self-help Center into other languages while ensuring the website is culturally competent. Include links to language assistance programs throughout the state, as well as information for immigrants intended to familiarize and educate them on the U.S. legal system and their rights in state court.
- e. Coordinate and initiate a public information campaign encouraging immigrants to seek relief from the court system without fear of deportation, including multi-lingual informational notices posted in courthouses, websites, self-help centers, domestic violence shelters and other locations frequented by immigrant communities. In order to address the particular challenges faced by immigrants needing to access the justice system, the information provided should promote general understanding of the U.S. legal system.
- f. Develop standards or protocols and disseminate best practices for use of interpreters outside the courtroom setting, such as in clerks' offices and self-help centers.
- g. Develop strategies for the use of technology, such as interpreter services via video conferencing and translation software, which will be of particular benefit to rural communities.
- h. Consider a multi-lingual referral phone line. (See Recommendation 17.)

Recommendation 23.

Reevaluate the system for recruitment, training, compensation and certification of court interpreters.

The existing system of recruitment, training, and certification of court interpreters should be reexamined. While rigorous standards for certification are essential, statistics indicate that the current system is coming nowhere close to providing sufficient qualified interpreters in civil and family law proceedings. Existing approaches to testing should be analyzed to determine whether fine-tuning could further improve them, and whether qualifications at levels below full certification can be identified for specific types of interpreting assignments. Such analyses should include efforts such as the Administrative Office of the Courts' study with ALTA Language Services, Inc. to conduct a comprehensive study of the court interpreter testing and certification process. This study should be complete by October 2007 and will be used to develop future court interpreter examinations.

Different modes of training and qualifying interpreters, including the possibility of apprentice interpreter status should be explored. Existing efforts to attract and retain interpreters should be increased significantly. Adequate funding should be sought so that compensations can be set at levels that encourage people to pursue careers as state court interpreters, and make state court interpreting a financially viable choice when compared to compensation rates in the private sector

or even the federal courts. Programs should be developed to work with high schools, community colleges, and other institutions of higher education to provide instruction, including the creation and expansion of degree programs, in court interpretation, and research should be conducted into both pedagogical and technological methods of training and instruction.

Recommendation 24.

Evaluate the role of lawyers, bar associations, legal services programs, law schools and law libraries.

Lawyers must be better equipped to assist parties and witnesses with limited-English proficiency. Legal services programs must continue their valuable efforts to improve services to their communities and train advocates and pro bono volunteers to serve non- or limited-English speaking clients. This includes sharing best practices in meeting the challenges posed by limited-English speaking clients, sharing resources with court self-help centers, and reaching out to law schools to recruit bilingual students and educate and mentor them regarding language access issues.

The State Bar should consider ways to help lawyers function better in settings involving parties or witnesses with limited-English proficiency, including developing and encouraging MCLE offerings. Law schools must take an active role in preparing their students for situations involving parties with limited – English proficiency and reflect such efforts in law school curricula. County law libraries must ensure that limited-English speaking patrons have adequate access to their resources.

Through partnerships with service providers, pro bono attorneys and other organizations that serve limited-English speakers, law libraries should provide their limited-English speaking patrons with multi-lingual materials and information, interpreter resources, in-library programs, and referrals to Lawyer Referral Services in their county that can then direct them to the appropriate attorney given their language and legal needs.



Improving Services to Modest-Means Clients

Modest-means Californians, as well as the overwhelming majority of low-income people throughout our state, have no meaningful ability to fully participate in our system of justice.

I. INTRODUCTION

Barriers to true access to justice exist not just for poor or very poor Californians. Modest-means³⁵ residents of our state are often similarly unable to access legal services, finding legal representation to be out of their financial reach while having household resources too high to qualify them for legal aid or pro bono assistance.

There are a number of programs, described below, aimed at serving modest-means clients, and many legal aid agencies have found innovative ways to provide some level of service to this population. However, the stark reality in California is that legal aid agencies often lack the resources to provide legal services even to those low-income people who would otherwise qualify for assistance.³⁶ The result therefore is that modest-means Californians, as well as the overwhelming majority of low-income people throughout our state, have no meaningful ability to fully participate in our system of justice.

For legal aid agencies, income eligibility for potential clients is usually determined as a percentage of the federal poverty guidelines. Legal aid generally provides legal services to those who are below 125 percent of the poverty guidelines. Many legal services programs are able to provide some measure of services to those above the 125 percent guidelines who are nevertheless unable to afford an attorney. However, the services offered to this population are very limited, often restricted to domestic violence victims or seniors, brief advice and counsel, or provided through law school clinics or programs that use volunteer attorneys. Some funding sources for legal aid agencies allow for the provision of services to families with incomes two to three times the federal poverty level – levels considered “lower-income” by the U.S. Department of Housing and Urban Development.

In spite of this limited flexibility of some legal services programs to serve those slightly above the poverty level, legal aid and pro bono legal assistance is rarely available to most Californians of modest-means. And accessing legal representation by an attorney is beyond the financial ability of most modest-means Californians.

Institutional barriers to representation can similarly be a significant factor in denying access to justice. For example, there are limitations on fees and recoveries in certain types of cases that often cause attorneys to decline taking on these matters as the limits on recovery do not compensate counsel for high litigation costs, time commitment and difficulty of the case.

Another barrier to access for moderate income people is that solo practitioners often feel unable to take cases at lower fees because of the high cost of their malpractice insurance. Creative solutions must be pursued to address this barrier, and developments in other states may provide good models to consider.

35. There is no universally agreed upon definition of “modest means.” Many existing programs aimed at serving modest-means clients define them as those with incomes that range from 125 percent of the poverty guidelines to 200 percent, although a few programs are slightly lower and a few are higher. The guidelines vary between regions, states, counties, and each locality would likely have to develop its own guidelines taking into consideration other existing resources, cost of living in their areas, and cost of legal services. For purposes of this discussion, we use modest-means to refer to the growing number of Californians for whom access to legal aid and pro bono assistance is not possible, and whose household resources are insufficient to pay prevailing hourly rates for legal services.

36. In *The Path to Equal Justice*, published in October 2002, the Access Commission found that current funding addresses less than 28 percent of the legal needs of California’s poor and lower-income residents. Similarly, the September 2005 LSC Report “Documenting the Justice Gap in America”, found that only 20 percent of the population in need of civil legal assistance actually receives it, and, of those who do seek assistance, over half often receive less than they require.

One of the most challenging problems faced by self-help centers... is that for those individuals who are not good candidates for self-representation, there is often nowhere to refer them for actual representation.

Self-Help Assistance

Since the statewide implementation of the Family Law Facilitator programs that began in 1997, court-based self-help services have provided significant legal services to low-income and modest-means Californians. Some counties have been able to expand on the Facilitator program, and a few have even expanded services beyond family law. These centers are staffed by court personnel or by legal aid staff working in partnership with the courts, and provide an invaluable service to modest-means court users, offering one-on-one assistance as well as workshops and other services.

In addition, self-help centers, legal aid agencies, and the Judicial Council have created myriad instructional materials, available on the Web, at the local courthouse or bar association, local law libraries, and at community legal service providers. These materials provide information to all Californians, regardless of income, and are therefore one of the primary sources, and often the sole source, of legal information and education for our modest-means population.

Together with the simplification of court procedures, court rules, and court forms undertaken by the Judicial Council and local courts, county law libraries and court-based self-help centers are helping moderate-income Californians overcome some of the barriers to access to justice. One of the most challenging problems faced by self-help centers, however, is that for those individuals who are not good candidates for self-representation, there is often nowhere to refer them for actual representation.

Limited-Scope Legal Assistance

One major development that has helped expand the legal help available for modest-means individuals is the availability of limited-scope representation. Limited-scope representation, also known as “unbundled legal services” or “discrete task representation,” is an arrangement in which an attorney and a client agree to limit the scope of the services provided by the attorney to discrete specified tasks. Limited-scope representation allows clients to hire an attorney to receive some coaching, for help drafting pleadings, or just for the court appearance, without having to retain an attorney for full representation in all aspects of the case. Although attorneys in some fields have long been offering such limited forms of assistance, interest in the concept grew in the mid-1990s, and it has become an important development in providing legal services to those of modest means.

Traditionally, most attorneys have entered into full representation agreements, through which an attorney would represent his or her client throughout every phase of their legal case, from beginning to end, with all tasks, for a full fee. The recognition that limited-scope representation still complies with attorneys’ ethical mandates and adequately protects clients, and the support from the ABA, and many states that have implemented rules and/or forms to facilitate limited-scope representation, has provided an important tool in providing access to justice for many. California has been a national leader in this area, with the Judicial Council developing forms to facilitate limited-scope representation first in family law, and more recently, effective January 1, 2007, in civil litigation generally.

Many people who cannot afford the full price of legal representation can afford to pay something less. Limited-scope representation and other modest-means programs not only reduce fees for eligible clients and thus broaden access—they also expand practice opportunities for attorneys, and enable them to become part of the “solution,” helping provide access for those who would otherwise not have it.

Rescued from human traffickers

Dilipa, a Sri Lankan domestic worker had hopes of a housekeeping job in the U.S. so that she could support her family. She was unknowingly recruited by human traffickers who, upon arrival in California, confiscated her passport and forced her to work around the clock caring for a household of adults and children. She was forced to sleep on a filthy cot in the laundry room and had only leftovers to eat. A team of pro bono attorneys working with a legal services program represented her, bringing one of the first lawsuits in the country under a new law, passed by Congress in December 2003, that gives victims the power to hold their traffickers directly accountable for compensatory and punitive damages. She recovered \$225,000 settlement from the defendants.

Lawyer Referral Services

Lawyer Referral and Information Services (LRIS), available through local bar associations, play a key role in addressing the legal needs of moderate-income Californians. They have been creating and expanding “limited-scope legal assistance” panels and “modest-means” panels, aimed at providing a discrete level of legal services at an affordable rate for modest-means clients.

In spite of these services, too many Californians are unable to meaningfully access our civil justice system. For these families, the financial strain of a major legal problem could force them to forego their legal rights or push them toward financial ruin. It is therefore imperative for any action plan aimed at providing true access to justice to make legal services available to those who need them, cannot afford them, and are not eligible for assistance from existing legal service providers.

II. RECOMMENDATIONS TO IMPROVE SERVICES TO MODEST-MEANS CLIENTS

Recommendation 25.

Evaluate and develop best practices for innovative delivery methods such as sliding fees and co-pays.

The Access and Delivery Committee of the Access to Justice Commission is currently reviewing efforts by some legal services programs, in California and in other states, to develop more stable and diverse funding sources by creating projects that pay for the services they provide. This includes both programs that charge fees directly to clients and programs that receive payment for services from some other source, like a public hospital, tribal organization, or unions.

Some programs are charging fees based on an hourly or per case rate, or provide a discrete set of services for an agreed-upon time period. A few programs have increased their income guidelines and charge a fee, usually on a sliding scale, to all clients over a certain percentage of poverty.

Sliding scale fees and co-payment systems that provide partial payment for legal assistance afford those above federal poverty thresholds but unable to afford private attorney market rates, a level of access to justice which may make a significant difference in their ability to meaningfully participate in protecting their legal rights. Some programs that assist community based organizations charge those organizational clients for assistance provided on corporate law matters, such as employment law advice, incorporation, contract drafting, land use, licensing, etc.

Legal services programs report that serving more moderate-income clients, while charging a sliding scale fee for services, both increases access for clients who otherwise would not be able to afford legal help, and provides long-term sustainability for the projects. Arguably, it can also increase general philosophical and political support for the provision of legal services, as a broader segment of the state’s population has access to and benefits from the assistance available.

The Access and Delivery Committee will consider ways to disseminate best practices and otherwise support these efforts to expand the availability of legal services through innovative delivery methods. For example, the Committee could add a track to the Pathways to Justice Conference in June 2008, inviting providers from around the country who have successfully undertaken fee-generating projects as well as representatives of the private sector who can consult on start-up businesses for non-profits.

Safe, after receiving asylum

Amat, a Yemeni nurse had been forced by her family to marry a man who beat her when she became pregnant, denying that the baby was his, then divorcing her and threatening to kill mother and child. Two pro bono attorneys at a large firm won asylum for her with the assistance of a volunteer interpreter and 2 attorney mentors from a legal services program.

Recommendation 26.

Expand and support programs and services designed to encourage and assist private lawyers to serve modest-means clients.

To achieve meaningful access to justice for moderate-income Californians, it is important to expand and support the variety of programs aimed at providing legal services to modest-means clients.

Lawyer Referral and Information Services (LRIS): Lawyer referral services should expand existing modest-means panels and develop new approaches to facilitating the connection to attorneys who will represent the growing number of clients unable to afford legal representation. The State Bar should enforce Rule 12.5 of the Lawyer Referral Service Rules and Regulations that addresses the establishment of panels for low and moderate-income consumers. The State Bar, local bar associations and lawyer referral services should work together to identify and expand best practices. They should also work to educate attorneys and the public of the existence of these panels, and support their expansion.

Limited-scope Legal Services (also known as “unbundled legal services”):

The State Bar and local bar associations should continue to promote the expansion of limited-scope representation, providing private attorneys education regarding the benefits of a law practice offering unbundled legal services, as well as training, risk-management materials, and other support (both at the regional/local level and statewide) regarding ways to offer limited-scope legal assistance in a competent and ethical manner.

The Judicial Council should continue to develop forms and rules to facilitate limited-scope representation. The judiciary (including court staff and administration) should be educated on the benefits to the courts of limited-scope presentation and the particular issues and rules governing limited-scope representation, and should be encouraged to implement specific rules and policies designed to encourage limited-scope representation in their courts. It is also important to have a coordinated bench-bar effort to educate the public on the availability of affordable legal assistance through limited-scope representation, and the benefits of obtaining unbundled legal services, as well as information about what their role will be in a limited-scope situation, and when such representation may not be appropriate.

Prepaid Legal Services Plans: The State Bar should evaluate existing prepaid legal plans in California, including employer-provided and privately marketed prepaid and legal insurance programs that cover basic legal needs, assessing the benefits, risks, and problems regarding these plans, while identifying best practices for these plans.

Outreach and Education of State Bar Sections: The State Bar should work with its sections, particularly solo and small firm and Trust and Estate sections, to encourage their members to address the needs of modest-means clients. Some of the actions that these sections can undertake, after thorough training from and support of the State Bar, are the provision of practice and training materials so attorneys feel competent and are able to do this type of work efficiently, publicizing needs through section publications, and working with LRIS programs to facilitate matching of clients with attorneys willing to take these cases.

Identify and provide support to groups developing innovative methods of serving modest-means consumers: Identify other best practices that aim at providing legal services to modest-means Californians, such as web-based materials and other organizations working directly with lawyers who might be willing to serve modest-means clients, such as bar associations, and organizations like the Law School Consortium Project which provides ongoing practical support for graduates committed to affordable legal services for low and moderate-income clients.



Recommendation 27.

Support organizations directly providing services to modest-means individuals.

The State Bar should analyze existing projects and best practices for programs serving modest-means consumers, such as those using sliding scale models, including legal services programs and other non-profit organizations and volunteer legal services programs of local bar associations. The Judicial Council and local courts, with the help of funding provided by the Legislature, should continue to work on expanding court-based self-help centers throughout the state, including the expansion of services to areas of civil law beyond family law.

Local governments should increase funding for county law libraries, recognizing that law libraries are often the only resource for modest-means Californians. Law libraries also provide essential legal resources and support to court programs such as self-help centers, small claims advisors and family law facilitators, and to attorneys, including small firm, solo and rural practitioners. Local advice and counsel service models provided by legal aid agencies, local bar associations, and pro bono panels should be supported and expanded. Technology can serve an important role in providing this support for service providers, by providing education, training, materials, and a connection to other service providers and information.

Public education campaigns should be conducted to inform the public of the existence of affordable legal services for modest means people and encourage those who are able to afford some degree of legal representation to obtain that assistance.

Conclusion to Part 2

California is a national leader in innovative approaches to providing meaningful access to justice to its residents. Over the last 10 years, much has been accomplished by our legal services community. This progress is due, in great part, to the collaboration of legal aid providers, courts, the Judicial Council, the State Bar, the Access Commission, county law libraries, and other community support.

However, the increase in the number of poor Californians and the increased unavailability of legal representation to most of our state's population makes the promise of equal access to justice an illusion. This Action Plan proposes a number of recommendations aimed at bringing us closer to true access to justice for all Californians.

APPENDIX 1

California Commission on Access to Justice, 2007

Hon. Steven K. Austin
Co-Chair
Contra Costa Superior Court
Martinez

Kathryn Eppright
Co-Chair
Andre Morris & Buttery
San Luis Obispo

Tony L. Richardson
Immediate Past Chair
Kirkland & Ellis
Los Angeles

Ramon Alvarez
Alvarez Lincoln/Mercury
Riverside

Kenneth W. Babcock
Public Law Center
Santa Ana

Marcia R. Bell
San Francisco Law Library
San Francisco

Joseph L. Chairez
Baker & Hostetler LLP
Costa Mesa

Robin C. Crawford
Law Office of Robin Crawford
Pacifica

Rozenia D. Cummings
California State Automobile
Association
San Francisco

Erika C. Frank
California Chamber of Commerce
Sacramento

Steven M. Gevercer
Office of the Attorney General
Sacramento

Michael J. Loeb
JAMS
San Francisco

Robert A. Long
Latham & Watkins LLP
Los Angeles

Sylvia Martin-James
Retired Educator
Riverside

Hon. James M. Mize
Sacramento Superior Court
Sacramento

Douglas W. Otto
Law Offices of Douglas W. Otto
Long Beach

Hon. Ronald Robie
Court of Appeal,
Third Appellate District
Sacramento

David Alan Rosen
Rose Klein & Marias
Los Angeles

John Snetsinger
California Polytechnic
State University
San Luis Obispo

Eric Wayne Wright
Santa Clare university
School of Law
Santa Clara

EX OFFICIO MEMBERS

Hon. Terry J. Hatter, Jr.
U.S. District Court
Los Angeles

Hon. James E. Herman
Santa Barbara
County Superior Court
Santa Maria

Hon. Earl Johnson, Jr.
Court of Appeal,
Second Appellate District
Los Angeles

Hon. James R. Lambden
Court of Appeal,
First Appellate District
San Francisco

Karen Lash
Equal Justice Works
Washington, D.C.

Hon. Jan Greenberg Levine
Juvenile – Dependency Court
Monterey Park

Jack W. Londen
Morrison & Foerster LLP
San Francisco

James Meeker
School of Social Ecology,
University of California, Irvine
Irvine

James Preis
Mental Health Advocacy Service
Los Angeles

Geoffrey L. Robinson
Bingham McCutchen
Walnut Creek

Toby J. Rothschild
Legal Aid Foundation
of Los Angeles
Long Beach

Harvey I. Saferstein
Mintz, Levin, Cohn, Ferris,
Glovsky, Popeo
Santa Monica

Hon. Ronald L. Taylor, Ret.
Riverside County Superior Court
Riverside

Hon. Laurie D. Zelon
Court of Appeal,
Second Appellate Court
Los Angeles

APPENDIX 2

Roster of Action Plan Working Group and Advisory Panel Members

Toby Rothschild**

*Chair, Advisory Panel
Commission on Access
to Justice
Legal Aid Foundation of
Los Angeles*

Hon. Steven Austin**

*Chair, Task Force on Report
to the Judiciary Committees
Commission on Access to Justice
Judicial Council Access &
Fairness Committee
Contra Costa Superior Court*

David Ackerly

*Standing Committee on the
Delivery of Legal Services
Legal Aid Foundation of
Los Angeles*

Ken Babcock**

*Commission on Access
to Justice
Public Law Center*

Marcia Bell

*Commission on Access to Justice
Council of California County Law
Librarians
San Francisco Law Library*

Stephanie Choy**

Public Interest Clearinghouse

Neal Dudovitz

*Task Force on
Self-Represented Litigants
Neighborhood Legal Services of
Los Angeles County*

Kathryn Eppright

*Commission on Access
to Justice
Andre Morris & Buttery*

Mary Lavery Flynn **

*Director,
Legal Services Outreach
State Bar of California*

Judy Garlow**

*Legal Services Trust Fund Program
State Bar of California*

Steven M. Gevercer**

*Commission on Access to Justice
Legislative Affairs
Office of the Attorney General*

Bonnie Hough**

*Center for Families,
Children & the Courts
Administrative Office of the Courts*

Mitch Kamin

*Legal Aid Association
of California
Bet Tzedek Legal Services*

Tracy Kenny

*Office of Governmental Affairs
Administrative Office of the Courts*

Hon. James R. Lambden

*Commission on Access
to Justice Judicial Council
Access & Fairness Committee
Associate Justice,
Court of Appeal,
First Appellate District*

Michael J. Loeb

*Commission on Access
to Justice
Bingham McCutchen, LLP*

Jack W. Londen

*Commission on Access
to Justice
Morrison & Foerster LLP*

Associate Dean James Meeker

*Commission on Access
to Justice
School of Social Ecology
Criminology Law & Society
University of California-Irvine*

Hon. Kathleen O'Leary

*Task Force on
Self-Represented Litigants
Court Interpreters
Advisory Panel
California Court of Appeal,
Fourth District*

James Preis**

*Legal Aid Association
of California
Mental Health
Advocacy Service*

Tony L. Richardson

*Commission on Access
to Justice
Kirkland & Ellis*

Geoffrey L. Robinson

*Commission on Access
to Justice
Bingham McCutchen*

Chris Schneider

*Legal Aid Association
of California
Central California
Legal Services*

Gary Smith

*Legal Aid Association
of California
Legal Services
of Northern California*

Marion Standish

*Legal Services Trust Fund
Commission
California Endowment*

Syd Whalley

*Western Center on Law
and Poverty, Inc.*

Don Will

*Center for Families,
Children & the Courts
Administrative Office
of the Courts*

Anthony Williams

*Office of Governmental Affairs
State Bar of California*

Julia Wilson**

*Legal Aid Association
of California*

Pantea Yashar**

Kirkland & Ellis

Hon. Erica Yew

*Task Force on
Self-Represented Litigants
Superior Court
of Santa Clara County*

Hon. Laurie Zelon

*Access & Fairness Advisory Com-
mittee
Commission on Access
to Justice
Court of Appeal,
Second Appellate District*

***Also on Action Plan
Working Group*

APPENDIX 3

California Core Principles for Development of a Comprehensive Integrated System for the Provision of Legal Services (2001 State Plan)

- **Meaningful Access to Justice.** Access to justice is a fundamental and essential right in a democratic society, and meaningful access to justice includes access to legal representation, where necessary.
- **Client-centered Planning.** All planning must grow out of a fundamental understanding of the needs and vision of the low income communities that we serve. The client community must be involved in the planning of California's justice system.
- **Stable and Adequate Resources.** The provision of legal services requires a stable and adequate resource base from government and private sources at the national, state and local level. Development and allocation of these resources is a joint responsibility of government, society and the justice community.
- **Continuum of Services.** Every local community must have access to a full continuum of culturally and linguistically appropriate services including: education; prevention; early intervention; brief advice and referral; self-help services; representation where needed, both to defend and bring affirmative actions; administrative, legislative and policy advocacy; community economic development; holistic and multi-disciplinary delivery systems; and, representation of community organizations. There must be a means for effective, appropriate referrals by and between programs, including social service agencies.
- **Innovative and Responsive Delivery Systems.** Innovative delivery systems must be continuously developed, evaluated, and replicated where appropriate. Responsiveness to the needs of clients, effective delivery, and expansion of services to under-served clients, should be the main criteria of innovative delivery systems. Information about innovations, including those based on technology, must be disseminated and coordinated statewide.
- **Evaluation.** All of the components of the California legal services delivery system must be reviewed and evaluated regularly to ensure that the system is effectively responding to the needs of clients.
- **Coordination of Regional and Statewide Planning.** Legal services program priorities and delivery design must be rooted in the communities we serve. Given the size and complexity of California and the diversity of our population, much of planning and coordination of service delivery will occur at the regional level. Regional planning will be tied to and supported by statewide planning in core functional areas such as advocacy, communication, technology, training and resource development, and through forums and task force networks in substantive fields.
- **Special Need Communities.** The California justice community must support the distribution of legal services to meet needs within communities of special need, including in rural areas, and for immigrant populations, the disabled, children, seniors and institutionalized individuals among others.
- **Expansive Partnerships to Increase Resources.** The California justice community shall be built upon partnerships throughout the state among legal services and pro bono providers, private lawyers, bar associations, courts, law schools, social service providers, community based organizations and other stakeholders. As we build partnerships, we must consciously foster sensitivity to the legal needs of the poor, as well as to the specific and appropriate role of all partners, and we must cultivate a base of legal services supporters.
- **Cultivating Leaders of Tomorrow.** The state justice community recognizes the importance of steadily cultivating and developing the future leaders of the California justice community, and is aware of the importance of hiring staff and training leaders that mirror the diversity of the clients that we serve.

APPENDIX 4

ABA Principles of a State System for the Delivery of Civil Legal Aid (Resolution 112B)

Approved by ABA House of Delegates August 7, 2006

The Goal

A state's system for the delivery of civil legal aid provides a full range of high quality, coordinated and uniformly available civil law-related services to the state's low-income and other vulnerable populations who cannot afford counsel, in sufficient quantity to meet their civil legal needs.

The Principles

A state's system for the delivery of civil legal aid achieves the goal if it:

1. Provides services to the low-income and vulnerable populations in the state.

The state's system for the delivery of civil legal aid provides services to low-income people and others who face financial or other barriers to access to justice including: those who cannot be served through federally funded programs for reasons such as their income level, immigration status or because they are incarcerated; older persons with social or economic need; people with mental or physical disabilities; and those facing particular barriers to access to civil legal services, such as people who are homeless or institutionalized, children, migrant workers, Native Americans, and people lacking proficiency in English.

2. Provides a full range of services in all forums.

A full range of services includes information about legal rights and responsibilities; options for services; outreach and community legal education; legal advice and brief services; support and assistance for individuals capable of representing themselves; representation in negotiation and alternative dispute resolution; transactional assistance; representation in administrative and judicial proceedings; extended representation in complex litigation and on systemic issues; and representation before state and local legislative and administrative bodies that make laws or policies affecting low-income and vulnerable people.

3. Provides services of high quality in an effective and cost efficient manner.

The state system provides low-income persons and others who cannot afford counsel with high quality civil legal aid services to meet their legal needs. All providers¹ in the state comply with standards of practice and ethics developed by the state, and institutional providers comply, where appropriate, with state and national standards of practice such as the American Bar Association Standards for Providers of Civil Legal Aid to the Poor and the Legal Services Corporation Performance Criteria. Programs and individuals providing services are evaluated by funders or other appropriate entities, and engage in their own evaluations. Staff compensation and workload are reasonable to enable the provision of uniformly high quality, effective and productive services. All individuals participating in providing, supporting or managing civil legal aid receive ongoing training and participate in professional and leadership development activities. An appropriately diverse staff is recruited, trained, supported, supervised and provided the necessary tools, including current technology, to provide high quality, effective and cost-efficient legal services. Management information and information about new development in the law is disseminated to all advocates and managers. Support is provided on state legal issues and advocates coordinate their work on behalf of the client community. Services are provided in a cost efficient manner to maximize access and limit unnecessary administrative and other costs.

4. Provides services in sufficient quantity to meet the need by seeking and making the most effective use of financial, volunteer, and in-kind resources dedicated to those services.

The state system has available the resources to provide the quantity of services necessary to meet the legal needs of the low-income and other vulnerable populations who cannot afford counsel in the state. To do so, the system maximizes services by effectively developing, leveraging and utilizing all potential financial, volunteer and in-kind resources. The system makes the best use of these resources to ensure the effectiveness and the cost efficiency of the system. Potential sources of funding for civil legal assistance include federal, state, and

1. "Institutional Providers" is a term used to refer to non-profit organizations that are established to provide civil legal aid services including staff attorney programs, pro bono programs, law school clinical programs and divisions of larger organizations that provide civil legal aid services.

local governments; court fee surcharges and fines; interest on lawyer trust accounts (IOLTA); attorney registration fees or dues assessments; add-ons to bar dues; grants from courts or bar associations; lawyer fund raising drives; other private donations; pro hac vice and similar fees; cy pres awards; client co-payments; foundation and corporate grants; attorneys' fees; planned giving; endowment funds; and capital campaigns. Potential sources of volunteer resources include private attorneys, corporate counsel, retired attorneys, government attorneys, law schools and law students, other professionals, and lay volunteers. Potential sources of in-kind resources include federal, state, and local governments, corporations, non-profits, and other private entities and individuals. Local, regional, and program-based efforts to build resources are coordinated with statewide efforts to maximize overall resources.

- 5. Fully engages all entities and individuals involved in the provision of those services.**
The state's system for the delivery of civil legal aid fully engages in the delivery of civil legal aid services all those who are involved in the provision of law-related services, including legal aid providers¹, private attorneys (working pro bono or for compensation), court personnel, law school clinics, human services agencies, paralegals, lay advocates and other public and private individuals and entities that provide legal services to low-income and other vulnerable people who cannot afford counsel in the state.
- 6. Makes services fully accessible and uniformly available throughout the state.**
The ability of low-income and vulnerable people to obtain civil legal assistance consistent with these principles does not depend on where that person resides in the state.
- 7. Engages with clients and populations eligible for civil legal aid services in planning and in obtaining meaningful information about their legal needs, and treats clients, applicants and those receiving services with dignity and respect.**
The state system, including all those involved in delivering services and providing support, treats clients and others who receive civil legal services with dignity and respect. Services are delivered in a culturally competent manner. To guide coordination and planning, the system obtains meaningful information from, and interacts effectively with, low-income and vulnerable people and groups representing them. Guidance is sought from all communities that face disparate treatment and unique barriers to the justice system, including new and emerging populations and categories of clients and potential clients.
- 8. Engages and involves the judiciary and court personnel in reforming their rules, procedures and services to expand and facilitate access to justice.**
The judiciary ensures that the courts are accessible and responsive to the needs of all residents, including low-income and vulnerable populations and those facing financial, physical and other barriers to access. The judiciary examines its rules and procedures to ensure that they do not create barriers to the courts and, where necessary, changes them to expand and facilitate access. Courts provide a range of services including assistance to pro se litigants where appropriate to enable all residents to obtain access to the courts in matters before the court.
- 9. Is supported by an organized bar and judiciary that is providing leadership and participating with legal aid providers, law schools, the executive and legislative branches of government, the private sector and other appropriate stakeholders in ongoing and coordinated efforts to support and facilitate access to justice for all.**
The organized bar and the courts provide active leadership and support for efforts to expand access to civil justice. Their involvement includes participation with legal aid providers, the executive and legislative branches of government, IOLTA and other state funders, the private sector and other appropriate stakeholders in formal structures and/or specific initiatives dedicated to this goal. State Access to Justice Commissions have proved to be an effective model for institutionalizing bar and judicial leadership and support. The organized bar has a special obligation to provide leadership for efforts to maximize pro bono services.

10. Engages in statewide planning and oversight of the system for the delivery of civil legal aid to coordinate and support the delivery of services and to achieve the principles set forth above.

The state system for the delivery of legal aid develops and maintains the capacity to plan and oversee its civil legal assistance delivery system so that the principles set forth above are achieved. Planning and oversight should be open and inclusive and include individuals who are experienced with and sensitive to the ethnic, racial and cultural makeup of low-income and vulnerable populations in the state. Appropriate staffing and other resources are provided for statewide planning. Effective communication initiatives are developed to increase public awareness of the availability of and need for legal aid throughout the state. Participants work together in a coordinated and collaborative manner to provide a full range of high-quality services efficiently and in a manner that maximizes available resources and eliminates barriers to access. Participants work with their counterparts in other states to learn from their experiences in improving the provision of civil legal assistance. Participants also work with the American Bar Association and other national legal aid entities and institutions involved in improving civil legal aid to gain a national perspective on their work, take advantage of collective resources and participate in the national efforts to achieve equal justice for all. Legal needs, including new and emerging legal needs, are identified, and effective and cost efficient methods of addressing them are developed. Research and evaluation of civil legal aid delivery methods and providers are undertaken to assure the quality, efficiency and effectiveness of the services provided and the system responds appropriately to the results.

APPENDIX 5

List of Recent Reports on Access Issues

California

And Justice For All: Fulfilling the Promise of Access to Civil Justice in California. A publication of the State Bar of California's Office of Legal Services, Access to Justice Working Group. 1997.

Equal Access Fund – A Report to the California Legislature. Administrative Office of the Courts, Center for Families, Children and the Courts. March 2005.
<http://www.courtinfo.ca.gov/programs/equalaccess/eaf.htm>

Evaluation of Legal Services Mapping. Legal Services Corporation Office of the Inspector General (final report pending).
<http://www.oig.lsc.gov/mapping/mapping.htm>

Handbook on Limited Scope Legal Assistance – A Report of the Modest Means Task Force. American Bar Association Section of Litigation. April 2005.
<http://www.abanet.org/litigation/taskforces/modest/report.pdf>

Language Barriers to Justice in California. A Report of the California Commission on Access to Justice. The State Bar of California, Office of Legal Services, Access & Fairness Programs. September 2005.
http://calbar.ca.gov/calbar/pdfs/reports/2005_Language-Barriers_Report.pdf

Model Self-Help Pilot Program – A Report to the Legislature. Judicial Council of California, Administrative Office of the Courts. March 2005.
<http://www.courtinfo.ca.gov/programs/equalaccess/modelsh.htm>

The Path to Equal Justice – A Five-Year Status Report on Access to Justice in California. A Publication of the California Commission on Access to Justice. The State Bar of California, Office of Legal Services, Access & Fairness Programs. October 2002.
<http://www.calbar.ca.gov/calbar/pdfs/accessjustice/2002-Access-Justice-Report.pdf>

Report of the Senior Legal Services Task Force. Report required by AB 830, Senior Legal Services bill, from the California Department of Aging and Senior Legal Services Task Force, submitted to Legislature, September 1, 2002.

Report on Limited Scope Legal Assistance with Initial Recommendations. Report prepared by the Limited Representation Committee of the California Commission on Access to Justice. October 2001.
http://www.calbar.ca.gov/calbar/pdfs/reports/2001_Unbundling-Report.pdf

Statewide Action Plan for Serving Self-Represented Litigants. Judicial Council of California Task Force on Self-Represented Litigants. February 27, 2004.
<http://www.courtinfo.ca.gov/reference/documents/selfreplitsrept.pdf>

Trust and Confidence in the California Courts – A Survey of the Public and Attorneys. Judicial Council of California, Administrative Office of the Courts. 2005.
http://www.courtinfo.ca.gov/reference/documents/4_37pubtrust1.pdf

Utilizing GIS to Study Legal Needs Issues: An Analysis of the LSC OIG Southern California Mapping Project. James W. Meeker, J.D., Ph.D., University of California, Irvine.
<http://www.oig.lsc.gov/mapping/references/meekeroigmappingreport.pdf>

Other States

Investing in Justice: A framework for Effective Recruitment and Retention of Illinois Legal Aid Attorneys. The Chicago Bar Foundation and the Illinois Coalition for Equal Justice. November 2006.

National

ABA Standards for the Provision of Civil Legal Aid. August 2006.
<http://www.abanet.org/legalservices/sclaid/downloads/civillegalaidstds2006.pdf>

An Analysis of Rules that Enable Lawyers to Serve Pro Se Litigants. A White Paper by the ABA Standing Committee on the Delivery of Legal Services. April 2005.
<http://www.abanet.org/legalservices/downloads/delivery/prosewhitepaperfeb2005.pdf>

Civil Legal Assistance for All Americans – Bellow-Sacks Access to Civil Legal Services Project. Jeanne Charn and Richard Zorza. Joint project of Harvard Law School's Program on the Legal Profession, Clinical Education Program, and the Hale and Dorr Legal Services Center of Harvard Law School.
<http://www.law.harvard.edu/academics/clinical/bellow-sacks/papers/bellow-sacks.pdf#search=%22Civil%20Legal%20Assistance%20for%20All%20Americans%22>

Documenting the Justice Gap in America – The Current Unmet Civil Legal Needs of Low-Income Americans. A Report of the Legal Services Corporation, Washington, D.C. September 2005.
http://www.lsc.gov/press/documents/LSCJusticeGap_FINAL_1001.pdf#search=%22Documenting%20the%20Justice%20Gap%20in%20America%22

Financing the Future: Responses to the Rising Debt of Law Students. Equal Justice Works, Washington, D.C., December 2006.
<http://www.equaljusticeworks.org/financing-the-future2006.pdf>

Securing Equal Justice for All – A Brief History of Civil Legal Assistance in the United States. Alan W. Houseman and Linda E. Perle. Center for Law and Social Policy. November 2003.
http://www.clasp.org/publications/Legal_Aid_History.pdf#search=%22Securing%20Equal%20Justice%20For%20All%22

Supporting Justice: A Report on the Pro Bono Work of America's Lawyers. The ABA Standing Committee on Pro Bono and Public Service, August 2005.
<http://www.abanet.org/legalservices/probono/report.pdf#search=%22Supporting%20Justice%20a%20Report%20on%20the%20Pro%20Bono%20work%20of%20America's%20Lawyers%22>

APPENDIX 6

Model Rules of Professional Conduct

http://www.abanet.org/cpr/mrpc/rule_6_1.html

PUBLIC SERVICE

Rule 6.1 Voluntary Pro Bono Publico Service

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

- (a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:
 - (1) persons of limited means or
 - (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and
- (b) provide any additional services through:
 - (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
 - (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
 - (3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

APPENDIX 7

Model Rules of Professional Conduct

http://www.abanet.org/cpr/mrpc/rule_6_5.html

PUBLIC SERVICE

Rule 6.5 Nonprofit and Court-Annexed Limited Legal Services Programs

- (a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:
 - (1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and
 - (2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.
- (b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

APPENDIX 8

Recent Developments in Expanding Pro Bono Resources

Throughout the State, pro bono providers and volunteer lawyers are working together to develop strategies for greater volunteerism.

- In December 2000, U.S. District Court for the Northern District of California Chief Judge Marilyn Hall Patel, the Chief Justice of California Ronald M. George, the Volunteer Legal Services Program (VLSP) of the Bar Association of San Francisco, the Lawyers' Committee for Civil Rights and leaders of San Francisco's largest law firms announced their commitment to a major increase in pro bono assistance.
- Pro Bono Professionals California is a peer group of pro bono and volunteer managers that includes more than 40 legal services providers ranging from San Diego to San Francisco.
- Pro bono partners from firms in San Francisco and Silicon Valley organized the Bay Area Pro Bono Roundtable in late 2002. More than 40 firms now belong to the Roundtable, which meets regularly to discuss ways to increase pro bono participation by large law firms and organized its first day-long conference for members in San Francisco in the fall of 2005.
- The Los Angeles Pro Bono Council was organized to bring managing and pro bono partners at large Los Angeles law firms together with Executive Directors of local legal services providers. Following the devastation of Hurricane Katrina in August 2005, the Council took the lead in organizing legal services organizations and law firms, put on trainings for more than 400 pro bono attorneys and law students, assembled written training materials, conducted intake sessions with evacuees and helped match volunteer lawyers with evacuee families in need of legal assistance.
- In the fall of 2005 the Santa Clara County Bar Association (SCCBA) formed a Pro Bono Task Force of former SCCBA presidents, members of the bench, solo and small firm practitioners, legal services providers, public lawyers and pro bono partners. The task force recommended that attorneys provide at least 60, and should aspire to provide at least 100, hours of pro bono service each year to those unable to pay for legal services.

APPENDIX 9

Judicial Council Resolution on Pro Bono (Unanimously endorsed by the Judicial Council of California, May 17, 1996)

RESOLVED, that the Judicial Council of California will join the State Bar of California to launch a cooperative effort to broaden access to the courts for unrepresented and low or middle-income persons; this access is threatened due to the lack of adequate funding for legal services programs serving the poor. There presently are an increasing number of litigants who must represent themselves without the assistance of counsel, and the lack of funding for legal services programs further diminishes access to our judicial system for those without adequate financial resources.

The Judicial Council urges members of the California judiciary to help address this urgent need by contributing to the effort to encourage pro bono legal work; such as:

- (1) agreeing to sign pro bono recruitment letters on behalf of pro bono programs;
- (2) participating in pro bono recognition events;
- (3) assisting in the training of pro bono lawyers;
- (4) considering special accommodations for counsel who are volunteering their services on behalf of the indigent, such as allowing pro bono attorneys to be heard first on the calendar, setting pro bono cases at specific times, or allowing pro bono attorneys to attend routine hearings by conference call; and
- (5) working closely with pro bono programs to make clinics available at or near the courthouse for those who cannot otherwise afford counsel.

APPENDIX 10

Organizations Working to Support And Coordinate the Statewide System of Delivering Legal Aid to Low-income Californians

California Commission on Access to Justice.

The California Commission on Access to Justice is dedicated to finding long-term solutions to the chronic lack of representation available for low- and moderate-income Californians. The Commission includes representatives from bench and bar, academia, business, and labor, as well as religious leaders and legal aid providers. Appointments are made by the Judicial Council, the State Bar, the Governor, Attorney General, legislative leaders, the Chamber of Commerce, the Labor Federation, the Council of Churches, and other statewide organizations. The commission is involved in efforts to address language barriers for litigants with limited English proficiency; increase resources for legal aid providers, including the establishment and maintenance of the Equal Access Fund; expand the availability of limited scope legal assistance for those who cannot afford full legal representation; and promote other efforts to increase the availability of legal assistance for low- and moderate-income Californians. The Commission has published several reports on these issues, including this Action Plan with recommendations intended to assist key institutions with responsibilities for ensuring a just and equitable judicial system in California.

Legal Services Trust Fund Commission.

The State Bar's Legal Services Trust Fund Commission was created by the California Legislature in 1981 and has responsibility for administering and interpreting the rules that regulate the Interest on Lawyers Trust Accounts (IOLTA) Program as well as the Equal Access Fund (EAF). The Trust Fund determines eligibility for IOLTA and EAF grants and reviews and approves proposed budgets for use of those funds. The Trust Fund is a multifaceted and invaluable resource to legal aid providers in California. It provides statewide system guidance and individual grant recipient assistance to improve the efficiency of legal aid providers and enhance their ability to make the most effective use of grant funds.

The Standing Committee on the Delivery of Legal Services (SCDLS).

The State Bar's Standing Committee on the Delivery of Legal Services (SCDLS) is a 20-member advisory committee that identifies, develops, and supports improvement in the delivery of legal services (civil and criminal) to low- and moderate-income individuals in California; serves as a resource to the Board of Governors on legal services issues and relevant legislation; develops and presents educational programs and materials to improve the delivery of legal services; maintains liaison relationships with other State Bar entities such as the California Commission on Access to Justice and external entities such as the Legal Aid Association of California; and works to encourage and increase pro bono participation in California. The work of the Committee is done both at the subcommittee and full committee levels in the following areas: appointments, legislation, pro bono, moderate income, recognition and training.

Judicial Council of California—Administrative Office of the Courts

The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of Chief Justice Ronald M. George, and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts serves as the council's staff agency. The Judicial Council has undertaken a comprehensive program to promote access to the courts. Since 1999, the Judicial Council has managed the Equal Access Fund, which is appropriated to the Judicial Council each year. The council oversees the administration of the fund; approves distribution of grants; appoints one-third of the members of the State Bar's

Legal Services Trust Fund Commission, and contracts with the State Bar for direct distribution of the funds under council supervision. Other key Judicial Council efforts related to access for low-income persons follow:

- **Task Force on Self-Represented Litigants.** Established in 2002 and chaired by Justice Kathleen O’Leary, this task force is charged with helping the courts effectively respond to the needs of self-represented litigants. In February 2004, the Judicial Council approved a Statewide Action Plan for Serving Self-Represented Litigants prepared by the task force. The task force is now working to implement the recommendations in the plan which include establishing self-help centers in the courts, increasing ways for attorneys to provide legal services, and coordinating the many efforts between the bench and the bar to provide services to low-income persons. The council also provides funding for local courts to develop and begin to implement their own action plans for serving self-represented litigants.
- **Self-Help Centers.** A system of family law facilitators has been in place since 1997 in all 58 counties. Facilitators, who are family law attorneys, guide some 30,000 litigants per month through procedures relating to child and spousal support. Most courts have now supplemented funds to allow a wider range of services. The council also funds three family law information centers and five model self-help program pilot programs designed to solve many common problems facing self-help programs. Starting in 2006, it allocated on-going funding to all courts to allow them to establish or expand their self-help centers. It provides technical support to courts that are creating their own self-help centers and works with the courts in developing strong partnership projects using the Equal Access partnership grant program.
- **Self-Help Web Site.** The Judicial Council has established the nation’s most comprehensive court-sponsored online self-help center, containing over 900 pages designed to help individuals navigate the court system, learn about state law, work smarter with an attorney, represent themselves in some legal matters, and find low-cost legal assistance. The entire self-help Web site is available in English and Spanish, and much of the information is also available in several other languages. The self-help Web site links extensively with the new LawHelpCalifornia.org Web site that provides referrals to legal aid providers and information for low-income persons. These coordinated efforts have supported many recipients of the Equal Access Fund, and their availability has significantly improved fund recipients’ efficiency.

Legal Aid Association of California (LAAC)

LAAC is the statewide membership organization of legal services programs in California. LAAC provides key support to the legal aid community through relevant and affordable trainings, statewide coordination efforts, innovative uses of technology, and advocacy on issues of concern to legal services programs, including the tremendous need for additional funding.

LAAC was founded by legal services programs in the early 1980s, in response to a community-wide resolution that a statewide legal services organization was needed to help programs collaborate and coordinate on issues of mutual concern. Over the past two decades, LAAC has remained true to its core mission to act as the unified voice for the legal services community, ensure a forum for legal services programs to coordinate, and provide high-quality training for legal services advocates. In 2006, LAAC’s membership included 74 organizational members and over 90 individual staff at legal services programs.

Public Interest Clearinghouse (PIC)

The Public Interest Clearinghouse (PIC) acts as the hub of legal services to focus energy on statewide planning and coordination, advocacy and sharing of information and resources to expand the capacity and effectiveness of the legal aid community. In that capacity, PIC staffs both the Legal Aid Association of California and the California Legal Services coordinating Committee. Among its other roles, PIC develops technology resources for clients and providers, such as the resource and referral database at LawHelpCalifornia.org; and builds future generations of public interest oriented lawyers by fostering law student pro bono and counseling law students on the practice of public interest law.

Western Center on Law and Poverty (WCLP)

Founded in 1967, WCLP is the state's oldest and largest legal services support center, with offices in Los Angeles, Sacramento, and the Bay Area. Through education, negotiation and litigation, WCLP works to ensure fairness and access to justice for low-income individuals and to effectuate broad-based change aimed at breaking the cycle of poverty. The Center's court cases, legislative work and administrative advocacy in the areas of health care, affordable housing and public benefits help hundreds and often thousands of people at a time. As a legal services support center, WCLP helps legal services attorneys in their professional development and in the day-to-day representation of their clients – through expert advice, training, legal updates, legislative monitoring and the publishing of specialized poverty law manuals and other educational materials.

California Legal Services Coordinating Committee

The Legal Services Coordinating Committee, which includes representatives of all the statewide groups described above, is charged with the responsibility for institutional accountability, ensuring that access to justice planning is ongoing and that planned projects are coordinated. The coordinating committee sponsors an annual legal aid stakeholder conference, and all Equal Access Fund recipients are invited to share resources and plan together to improve the efficiency and effectiveness of the statewide delivery system.



ART DIRECTION +
DESIGN

Zaldy Serrano
+
Canza, Inc.

