

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California - 180 Howard Street - San Francisco, CA 94105 - (415) 538-2251 - (415) 538-2524/fax

HON. ROSEMARY PFEIFFER
Co-Chair
*Superior Court of San Mateo County
San Mateo*

GEOFFREY L. ROBINSON
Co-Chair
*Bingham McCutchen
Walnut Creek*

RAMON ALVAREZ
*Alvarez Lincoln/Mercury
Riverside*

MARCIA BELL
San Francisco Law Library

ROBIN C. CRAWFORD
Pacifica

KATHRYN EPPRIGHT
*Andre Morris & Buttery
San Luis Obispo*

DR. HALFORD FAIRCHILD
Los Angeles

STEVEN M. GEVERCER
*Legislative Affairs
Office of the Attorney General
Sacramento*

LAUREN HALLINAN
San Francisco

HON. TERRY J. HATTER
*U.S. District Court
Los Angeles*

JAMES E. HERMAN
*Reicker, Pfau, Pyle, McRoy & Herman, LLP
Santa Barbara*

HON. MARTIN J. JENKINS
*U. S. District Court – Northern District
San Francisco*

HON. JAMES R. LAMBDEN
*Court of Appeal, 1st Appellate District
San Francisco*

ROBERT L. LIEFF
*Lieff, Cabraser, Heimann & Bernstein
San Francisco*

FRED L. MAIN
*California Chamber of Commerce
Sacramento*

SYLVIA MARTIN-JAMES
*Retired, Riverside Unified School District
Riverside*

PROFESSOR JAMES MEEKER
University of California-Irvine

DOUGLAS W. OTTO
*Law Offices of Douglas W. Otto
Long Beach*

JULIE S. PAIK
*Child Support Services Department
Commerce*

TONY L. RICHARDSON
*Kirkland & Ellis
Los Angeles*

DAVID ALAN ROSEN
*Rose Klein & Marias
Los Angeles*

TOBY J. ROTHSCHILD
*Legal Aid Foundation of Los Angeles
Long Beach*

HON. RONALD L. TAYLOR, RET.
*Superior Court of Riverside County
Riverside*

MARSHALL WALKER, III
*Local 790 SEIU
Oakland*

MARY C. VIVIANO
*Director, Legal Services Outreach
State Bar of California
San Francisco*

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE ANNUAL REPORT - 2004

2004 Co-Chairs:

Honorable Rosemary Pfeiffer, Superior Court, San Mateo County
Geoffrey L. Robinson, Bingham McCutchen, Walnut Creek

Commission Charge:

The California Commission on Access to Justice was launched in 1997 to pursue significant improvements in access to justice for low and moderate income Californians, including implementing the recommendations of the 1996 Report, *And Justice for All: Fulfilling the Promise of Access to Civil Justice in California*.

Appointing entities:

The Governor
The Attorney General
The Speaker of the Assembly
The Senate's President Pro Tem
The Judicial Council
The State Bar of California
The Council of California County Law Librarians
The Council of Churches
The Labor Federation
The Chamber of Commerce
The League of Women Voters
Consumer Attorneys of California
California Judges Association

Contact:

Mary C. Viviano, Director
Legal Services Outreach
State Bar of California
180 Howard Street
San Francisco, CA 94105-1639
(415) 538-2251 FAX: (415) 538-2524
mary.viviano@calbar.ca.gov

2004 Activities and Accomplishments

The Access to Justice Commission had a productive year as it pursued its mission of significantly improving access to civil justice and removing economic barriers to the judicial system faced by low and moderate income Californians.

1. Language Access

The Access Commission continued to focus attention on the need for increased access to the judicial system for those encountering language barriers. In coordination with the Judicial Council Access and Fairness Advisory Committee and the Court Interpreters Advisory Panel, as well as the Administrative Office of the Courts, the Commission pursued the following projects:

Policy Paper. The Language Access Committee finalized its policy paper describing the law, resources available, and possible solutions to language barriers facing those with limited English proficiency when they come in contact with the judicial system. As part of the development of the policy paper, legal services providers and staff of self-help centers were surveyed on the language problems encountered, the solutions tried, and possible recommendations. At its October 9, 2004 meeting, the Commission approved publication and distribution of the paper, entitled *Language Barriers to Justice in California – A Report of the California Commission on Access to Justice*. It is scheduled for distribution early in 2005.

Statewide Stakeholder Conference: A presentation on language access issues was made to 50 participants at the Statewide Legal Services Stakeholders' Conference at the Administrative Office of the Courts on August 27, 2004. It was a participatory session, including court staff, judges, and legal services advocates, that resulted in an increased understanding of the challenges everyone faces and some of the strategies that are being pursued to address language problems.

Language Access Clearinghouse. A comprehensive list of programs, projects, and resources embodying "best practices" with contact information was distributed at the Statewide Stakeholders' Conference.

2. The Path to Equal Justice: 5-Year Status Report

The Commission continued to implement and publicize the recommendations of *The Path to Equal Justice*, issued by the Commission in late 2002. The Commission relied on the recommendations in the Path to Equal Justice report to select its key priorities for this year -- addressing access to justice issues in rural areas, increasing lawyer contributions, supporting the Equal Access Fund, and improving language access.

The ongoing work on the Report to the Legislature on the Equal Access Fund, which is required to be submitted in March, 2005, is also relying heavily on the research done for *The Path to Equal Justice*.

3. Limited Scope Legal Assistance

The Commission's Limited Representation Committee continued to actively pursue implementation of the recommendations of the *Report on Limited Scope Legal Assistance* (2001), including:

Webcast Training: This year a training was developed for posting on the web, entitled *Expanding Your Practice by Offering Limited Scope Legal Services: A "Hands On" Family Law Workshop*. Co-sponsored by the California Commission on Access to Justice, The State Bar of California, Practising Law Institute (PLI), and Central California Legal Services, the training will be available for one year on the PLI website in digital form to anyone interested in helping expand the availability of unbundled legal services. The training was held on November 6th as a video conference from San Francisco, with a live feed in Fresno and Los Angeles. It included judges and practitioners on site at each location. The panelists who participated are leading experts, judicial officers and experienced attorneys. The training was a huge success, involving nearly 100 participants from the three locations. The workshop was financially successful and evaluations were extremely positive.

Training Sessions: At least fourteen other training sessions were offered in 2004 by the Limited Representation Committee, in its continuing effort to help attorneys be effective and efficient as they offer limited scope legal assistance, and to help judges effectively manage cases involving limited scope assistance. A key part of the training is to help practitioners be aware of the new family law court rules and court forms, approved by the Judicial Council, and effective as of July 1, 2003.

Risk Management Materials: The Committee has disseminated over 4,900 copies of the 2003 packet, *Family Law Limited Scope Representation Risk Management Materials*, a comprehensive set of risk management materials that help ensure that attorneys "unbundle" their services ethically and competently. The packet contains suggested guidelines and standards on best practices, sample fee agreements, checklists, and the approved Judicial Council court forms. The Committee has also worked with local Lawyer Referral Services planning to establish unbundling panels, and has disseminated Consumer Education materials on limited scope legal assistance.

4. Communication Project

Early in 2004, the Communication Committee helped publicize the recommendations of *The Path to Equal Justice* report. However, the Commission decided to postpone work on its major proposed Communication Project in order to focus attention on its other key priorities. The initial concept for the Communication Project was a major statewide publicity campaign that would require an extensive commitment of funds. The Commission decided to consider a major communication project only after resolution of the state budget crisis. The Commission continues to focus attention on the need for civil legal services through its many other projects.

5. Equal Access Fund

The Access Commission worked with the Judicial Council to ensure continuation of the \$10 million Equal Access Fund, which the Commission helped establish in 1999. The Fund is a state appropriation to the Judicial Council, administered by the State Bar's Legal Services Trust Fund Program, under Judicial Council oversight. The Equal Access Fund supports 100 local legal services programs across the state that offer free civil legal services for the poor on issues affecting their housing, families, health and employment. Other recipients include statewide support centers and court-based self-help centers operated by legal services programs in partnership with their local courts.

Report to the Legislature. The Commission continues its work with the Judicial Council, the Legal Aid Association of California (LAAC), and the State Bar in preparing a report to the legislature due in March 2005, on the efficiency and effectiveness of work being funded by the Equal Access Fund, and progress made toward addressing the legal needs of the unrepresented.

In 2004, the report was drafted based on the data compiled and the evaluations submitted by recipient programs. After review by the Task Force on the Report to the Legislature, the draft was distributed for comment, and a draft was reviewed by the Access Commission and approved in principal at its November meeting. It will be submitted to the Judicial Council for approval early in 2005, and presented to the Legislature by March 1st, 2005.

6. CalJustice Advisory Committee: Expanding Legal Services Technology

The Access Commission helped to establish the CalJustice Advisory Committee to coordinate development of expert systems and other uses of technology by legal services programs. CalJustice is staffed by the Public Interest Clearinghouse, and the Commission continues to be actively involved in its various projects, including the development of expert systems, and the expansion of the availability of self-help kiosks. A statewide legal services website was developed by California Indian Legal Services, working with the Public Interest Clearinghouse and the CalJustice Advisory Committee. On August 27, 2004, a press conference was held at which Chief Justice Ronald George officially launched the LawHelpCalifornia web site (www.lawhelpcalifornia.org), and focused attention on additions and translations now available on the Court 's self-help web site, www.courtinfo.ca.gov. The web sites complement each other and provide valuable information to litigants, attorneys and court staff.

7. Benjamin Aranda Judicial Access to Justice Award [State Court Committee Project]

Every year the Access Commission recommends a judge to be honored jointly by the State Bar, Judicial Council, and California Judges Association for his or her dedication to improving access to our judicial system. The award has quickly become one of the most prestigious, competitive awards in the state, and helps focus attention of court and bar leaders on the issue of access. The award is presented by the Chief Justice at the California Judicial Administration Conference, and this year's recipient was **Justice Earl Johnson, Jr.**, Court of Appeal, Second District – a founding member and former co-chair of the Access Commission.

8. Self-Represented Litigants [State Court Committee Project]

In March of 2004, the Judicial Council approved the Statewide Action Plan for Self-Represented Litigants, based on recommendations from its Task Force on Self-Represented Litigants, with significant input from the Access Commission. The Commission has helped disseminate information about the newly-approved plan, including distribution of posters on “Serving California’s Self-Represented Litigants – Highlights from the Report of the Task Force on Self-Represented Litigants” featuring the recommendations of the Task Force, its key findings, benefits to the Community and to the Courts, innovative model programs, and online service. An implementation task force was established in November, and will begin work in December on implementation of the approved plan.

Presentations have been made to interested groups on the new Statewide Plan, as well as training for judges and court clerks on ways to best serve the needs of unrepresented litigants while making most efficient use of Court resources. Significantly, nearly half of the attendees at this year’s annual Legal Services Stakeholder Conference were court staff from self-help centers. The expansion of assistance for self-represented litigants throughout California has greatly expanded services for low-income Californians, and the close collaboration between legal services programs and these court-based centers has become a model for the country.

9. Federal Courts Committee

The Commission’s Federal Courts Committee is working on several projects, under the leadership of Judge Edward Chen. Each district in California now has a representative on the Committee, and they are in a position to develop and disseminate best practices from all the districts on issues of pro bono and self-help assistance. The Committee is preparing a comment on the newly-released Interim Report and Preliminary Recommendations of the Ninth Circuit Task Force on Self-Represented Litigants, based in part on the experience of the Commission’s State Courts Committee.

The Committee is also promoting the delivery of pro bono legal services, possibly by promoting a model program in one district; 2) developing model pro per materials, relying in part on models from state court experiences, and 3) considering expansion of the availability of ombudsman offices in prison facilities.

10. Legal Services Coordination

The Legal Services Coordinating Committee held a successful one-day Statewide Stakeholders Conference at the Administrative Office of the Courts on August 27th. Over 150 people involved with legal services and access to justice efforts statewide attended the Conference. The program provided valuable information on subjects such as court and legal service collaborations, family law, pro bono, juvenile justice, strategies to increase language access, and dealing with fraudulent legal aid organizations. Those in attendance represented the courts, legal services, law schools, and law libraries, pointing to a trend this year that shows a larger, expanded community. Part of the program included the media event at which the Chief Justice officially launched the LawHelpCalifornia web site, and featured major improvements in the court's self-help website, www.courtinfo.ca.gov.

This Stakeholder Conference was sponsored by the Legal Services Coordinating Council, which was launched by the Access Commission with other statewide entities to identify gaps in service for low-income Californians and ways to address those gaps. The Committee developed a comprehensive list of state planning commitments to assure accountability and provide a basis for overseeing implementation of the state plan. The Committee regularly sends reports of these state planning efforts to the Legal Services Corporation.

New Initiatives

In addition to the projects described above that were set forth in the Commission's 2004 Work Plan, the following activities were also pursued during 2004, based in part on recommendations from *The Path to Equal Justice*.

A. Temporary Judges, Analysis and Recommendations [State Courts Committee]

For some time, the State Courts Committee has been concerned about the lack of adequate training and standards for temporary judges, particularly since temporary judges are often used on cases affecting the low-income community, such as Small Claims Court. The Committee is serving as a liaison between the Access to Justice Commission and a newly formed task force – the Judicial Council Task Force on Temporary Judges. The Task Force will address a number of issues such as training, selection and protocols, standardization, and reduction in the number of temporary judges and the kinds of cases assigned to temporary judges. This Task Force will identify potential problem areas, such as potential conflicts of

interest, as well as collect best practices for selection, training, and quality control, and recommend uniform policies and procedures.

B. Long-Range Planning Projects

The Access Commission began a new long-range planning effort in 2004, initiating two new “think tank” task forces. One task force is analyzing statutes that provide for a right to counsel in appropriate circumstances; the other is developing a plan that may improve the cost-effectiveness and “justice yield” of the available resources (e.g., legal services lawyers, lay advocates, self-help assistance centers, computer generated forms and assistance, website assistance, etc.), focusing on issues such as how to best allocate limited resources within our legal services delivery system. The project will involve identifying what levels of assistance—or representation—will be required in different common situations faced by the low-income community in order to give the client a fair chance of prevailing, if appropriate based on the law and facts.

C. Rural Task Force

The Path to Equal Justice focused attention on the fact that there are unique rural access challenges and a scarcity of resources. This new Task Force is considering ways the Commission might help address these challenges. Several ideas have been discussed, including coordination with “Ask Now,” an online legal information and referral program staffed by law librarians. The Task Force helped connect this service with LawHelpCalifornia, and the two have now been linked and training is under way. The Task Force is also planning additional Community Forums, at the request of the Project Directors of the LSC-funded legal aid programs. The upcoming forums would be based on the Commission-sponsored Fresno Community Forum on Access to Justice, held in 1999. That forum successfully brought together key members of the community – business, courts, social services, legal services, churches, and community-based organizations, and led to significant improvements in their efforts to achieve access to justice.

The Task Force is planning other possible projects, including publicizing rural needs and challenges, fostering rural fellowships, and considering ways to increase resources available to rural legal services providers.

D. Awards Task Force

The Awards Task Force of the Access Commission is considering establishing new awards to recognize those involved with improving access to justice who might not be eligible for existing awards. Possible priorities might include commending court staff working with unrepresented litigants, corporations involved with improving access to justice, and bar leaders who work on improving the legal services delivery system.

E. Coalition to Preserve Our Justice System

Community-based organizations across the state have come together to form the Coalition to Preserve our Justice System. Because they regularly assist clients seeking access to the courts, programs offering free civil legal services to the poor have taken the lead in forming this new Coalition, working with members of the Access Commission. The Coalition also includes groups providing services to domestic violence victims, senior citizens, children, the homeless, disabled Californians, and those with limited English proficiency.

The goal of the Coalition is to educate our State's opinion leaders about the importance of adequate, stable funding for the judicial branch of government, and the consequences to low-income individuals if the court system were burdened with more than its fair share of budget cuts. Coalition members also help educate the public about the critical work of the courts, inform members of their boards of directors about ways that they can help, and invite other nonprofits to join in this effort.