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. STEVEN AUSTIN
Co-Chair
Contra Costa County Superior Court
Martinez

JOSEPH I. CHAIREZ
Co-Chair
Baker & Hostetler LLP
Costa Mesa

MARY LAVERY FLYNN
Director, Legal Services Outreach
State Bar of California
San Francisco

California Commission on Access to Justice
2007 Annual Report

The Access to Justice Commission had an extremely productive year as part of its ongoing effort to make significant improvements in the administration of justice and to increase access to the judicial system for low and moderate income Californians:

Key Achievements:

- **Action Plan for Justice**: The Access Commission developed this valuable Action Plan at the request of the Assembly Judiciary Committee, working in conjunction with the Judicial Council, State Bar, Legal Aid Association of California (LAAC) and other entities. It includes an overview of key principles for our legal services delivery system and 27 recommendations to improve access to justice. Some of the key concepts were already being implemented in 2007, and follow-up on all recommendations is under way.

- **Language Access**: Statewide efforts continued in 2007, focusing attention on the need to improve language access. Since the release in late 2005 of the Commission's report, *Language Barriers to Justice in California*, work has been ongoing to implement its recommendations -- supporting proposed legislation, collaborative efforts with the judiciary to highlight the need, outreach presentations around the state, and input on proposals designed to improve the recruitment and testing of court interpreters.

- **Increasing Legal Services Resources**: The Access Commission has been working with all key stakeholders to expand resources for legal services programs, including two major successful efforts in 2007 – Launching of the Justice Gap Fund to implement AB 2301, and implementation of IOLTA Comparability, through enactment of AB 1723. The Commission was actively involved with both of these efforts, working closely with the 2301 Task Force and the Legal Services Trust Fund Commission.

- **Improving Rural Legal Services**: The Access Commission continued to analyze the challenges facing rural legal services and to consider solutions to the chronic lack of resources. A draft policy paper is in development and will be released in 2008.

- **Pilot Representation Project/Right to Counsel**: The Access Commission provided extensive support for the pilot representation project proposed by the Governor and the Chief Justice. While the effort was ultimately not enacted in its first year, work is ongoing to lay the groundwork for a successful effort in the future, when adequate resources are available. The Commission also developed a model statute for a comprehensive right to counsel in civil cases. The draft was widely circulated throughout the country, and a second more focused proposal is also near completion.

- **Planning to Launch the Second Decade**: Following the publication of the Action Plan, the Commission convened a two-day retreat and planning meeting. The retreat celebrated the first ten years of the Commission's existence and set the stage for the discussion of long-range planning to set priorities and projects for the future, based on the recommendations from the Action Plan. A formal Symposium to celebrate the 10th anniversary of the Commission will be held in April 2008.

Action Plan for Justice
A Report of the California Commission on Access to Justice

The Access Commission developed this Action Plan at the request of Assembly Judiciary Committee Chair, Dave Jones. The strategies to improve access to justice focused on the following priority areas:

- Resources for Legal Services
- Pro Bono Service
- Improving Delivery of Legal Services
- Self-Represented Litigants
- Language Access
- Modest Means

A Working Group and Advisory Panel were representative of the many organizations actively involved in the compilation of this Action Plan. The final product is the result of a significant statewide collaborative effort involving the Legal Aid Association of California (LAAC), 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 Statewide Legal Services Stakeholders Conference held in May of 2006.

The Action Plan, which was published in April 2007 and submitted to the legislative judiciary committees, includes an overview of key principles for our statewide legal services delivery system and 27 recommendations. The Action Plan is 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, and other key statewide entities. The action plan focuses attention on the need for adequate funding for legal services for low-income Californians, the need for increased pro bono work by lawyers, the value of self-help centers to assist self-represented litigants, and other recommendations to improve access to the courts.

Hearing on the Action Plan: In February of 2007 Assembly Member Jones' office sponsored a legislative hearing on the Acton Plan. Several members of the Assembly Judiciary Committee were present, and members of the Commission attended to offer testimony, along with representatives of legal services programs and the clients they serve. The hearing was well attended and extremely successful in conveying the urgency of efforts to increase access to the justice system for low income Californians.

Language Access Project

The Commission on Access to Justice published the report, *Language Barriers to Justice in California*, in September 2005. Since that time, the Commission has sponsored the Language Access Coordinating Group that works closely with the Judicial Council's Court Interpreters Advisory Panel, to continue to focus attention on the need. The Language Access Coordinating Group has supported legislative efforts to expand the availability of language assistance, and provided input to efforts to improve the recruitment and testing of court interpreters.

Regarding the goal of expanding the number of certified court interpreters, the Access Commission analyzed and submitted extensive comments during 2007 on a study commissioned by the Administrative Office of the Courts. The study, done by ALTA Language Services, evaluated California's system of interpreter certification and registration testing. The Language Access Outreach Committee has also begun to look at ways to help establish the position of "language facilitators," a helpful asset to the self-help centers, clerks' offices and other non-courtroom functions, to explain procedures to LEP litigants.

The Committee also continued its work on the right to an interpreter in civil cases, providing input on AB 1726 (Judiciary) that would have provided for court interpreters when needed for those parties in family, domestic violence, and other civil matters who require assistance with English. The bill was not enacted, due in part to budget concerns.

The Commission will continue to work with the Judicial Council's Access & Fairness Advisory Committee, the Judicial Council Court Interpreters Advisory Panel, and the Legal Aid Association of California to coordinate efforts to address the language report's recommendations.

Legal Services Funding/Equal Access Fund

Equal Access Fund

The Access Commission, through its Funding Committee, works with the Judicial Council and Trust Fund Commission to maintain the Equal Access Fund. The Access Commission initially promoted establishment of the Equal Access Fund in 1999, and has continued to monitor its progress and to ensure it continuation and expansion.

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. Ten percent of the Equal Access Fund is devoted to court-based self-help centers operated by legal services programs in partnership with their local courts. The final report to the Legislature on the Equal Access Fund was submitted in March 2005.

Justice Gap Fund

The Access Commission supported establishment of the Justice Gap Fund, which was listed as a priority in the 2007 Action Plan for Justice. The Fund was set up in 2007 to implement AB 2301, which was enacted the prior year to authorize the State Bar to collect voluntary contributions to legal services programs. The resulting Justice Gap Fund requests a contribution of $100 on attorneys' annual bar dues statement. Initial returns indicate that it will raise at least $1 million during its first cycle -- funding that is very necessary for California's legal services programs.

IOLTA Comparability

The Access Commission devoted significant resources during 2007 to help enact AB 1723 (Assembly Judiciary Committee), the IOLTA Comparability bill that was signed by the Governor on October 10, 2007. This bill increases revenue for the Legal Services Trust Fund Program by obtaining rates from financial institutions on IOLTA accounts comparable to those paid to other customers with similar accounts. It also updates IOLTA legislation by allowing a broader range of investment vehicles for IOLTA accounts and calls on lawyers to hold IOLTA funds in banks that are in compliance with this new legislation.

The Commission worked closely with the Legal Services Trust Fund Commission and the Legal Aid Association of California (LAAC) to develop this IOLTA comparability proposal, which was sponsored by the State Bar. As a result of these joint efforts, California has joined the 15 other states that have comparability rules established, and the anticipated increase in IOLTA funding will make a significant difference in the years to come.

Federal Court Project

The Federal Courts Committee is made up of liaisons from each federal district, as well as Commission representatives. The Federal Courts Committee continues to oversee efforts designed to increase access to the federal courts for low and moderate income Californians. The Committee has worked on two projects:

The first is a pro bono project, designed to assist each district with pro bono planning, improving outreach and the commitment of local lawyers to take on key federal court cases on a pro bono basis. Implementation has begun through collection of all federal court-related pro bono web sites. The list will help the Federal Courts Committee work with their colleagues to determine what the best practices are, what good models for materials and programs exist, and how they can be replicated in all the federal districts in California.

The Committee also continues to work on expanding the availability of assistance for self-represented litigants in the federal judicial system in California. The chair of the Federal Courts Committee, Judge Ed Chen, is also chair of the Ninth Circuit Pro Per Task Force, facilitating collaboration with other districts in the Circuit toward the goal of sharing best practices and improving available self-help materials and projects.

Expanding Self-Help Assistance

The Commission works with the Judicial Council's Task Force on Self-Represented Litigants on implementation of the statewide action plan, adopted by the Judicial Council in 2004. During 2007, the Task Force developed a Court Rule establishing staffed self-help centers as a core function of the court system. The Task Force is now developing guidelines for self-help centers as well as pursuing a major educational program, including a curriculum for presiding judges and court personnel on pro per issues and working with self-represented litigants.

Representatives of the Access Commission have been actively involved with these efforts, participating in the curriculum development, the drafting of rules and guidelines, and otherwise helping expand self-help centers across the state. The Task Force also published a Bench Guide, *Handling Cases Involving Self-Represented Litigants* in 2007, designed to help judicial officers handle the growing caseload of self-represented litigants. Based on the experiences of hundreds of judicial officers who have shared their perspectives, ideas, and suggestions, the guide includes tools and techniques to help judges run their courtrooms effectively, comply with the law, maintain neutrality, and increase access to justice.

Finally, a national Conference on Self-Represented Litigants was held in San Francisco in May, 2007, with significant input from Commission representatives. The program brought together judicial officers, court administrators, family law facilitators, small claims advisors, legal services providers, law librarians, and professionals from community agencies to share information and learn from experts in the field about promising strategies in serving self-represented litigants. California's courts have taken major steps to respond to the growing numbers of self-represented litigants. Self-help centers, informational materials, pro per calendars, restructured procedures, guidance for clerks, and other strategies all play a part in helping to meet the needs of the public, court staff, and judges. The national conference convened experts from throughout the country to discuss how to spread these innovations nationally.

Awards

Benjamin Aranda Judicial Access to Justice Award. 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, presented by the Chief Justice, has quickly become one of the most prestigious and competitive awards in the state, and it helps to focus the attention of court and bar leaders on the issue of access.

This year's recipient was **Justice Kathleen O'Leary**, Associate Justice, Court of Appeal, Fourth Appellate District. Justice O'Leary chairs the Judicial Council's Task Force on Self-Represented Litigants and the Judicial Council's Court Interpreters Advisory Panel, and serves as Vice-Chair of the Appellate Education Committee. On the trial court bench she exhibited patience, understanding, and a willingness to listen to all who sought justice before the court. She is committed to improving access to language services, particularly for domestic violence victims and other self-represented parties in family law and juvenile dependency.

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Court-Staff Award. This annual award to court staff involved with access to justice efforts, awarded jointly with the Legal Aid Association of California (LAAC), helped cement the bench-bar collaboration to improve access to the judicial system. The award was established in 2005.

This year, another outstanding advocate, **Judith Beck** of Marin County Superior Court, was recognized for her efforts in assisting low-income self-represented litigants in addressing family support issues. In addition to her duties as a Family Law Facilitator, she devoted countless hours to other local initiatives that are improving access to justice for Marin County residents and inmates incarcerated in San Quentin Prison. She was described as being among the most dedicated and visionary legal professionals working with self-represented litigants in California.

Legal Services Coordinating Committee (LSCC)

The Commission helped launch this statewide group to coordinate activity by a variety of institutions involved with statewide planning for legal services. The goal is to identify gaps in service and ways to address those gaps, as well as to ensure institutional accountability for those organizations that have taken responsibility for state planning. The LSCC is playing a key role in ensuring implementation of the Action Plan, and is also taking on responsibility for coordinating statewide efforts that have emerged to plan for increased funding resulting from IOLTA comparability.

The Access Commission was one of the sponsors of the annual meeting of the Statewide Legal Services Stakeholders Conference, which was held on April 25, 2007. On April 24, the day before, many legal services advocates convened to discuss the impact of technology on low-income litigants and its critical role in court and legal proceedings. This year's roundtable discussions included:

- Law students as a resource
- Discussion of the proposed pilot for civil representation
- The role of self-help in the continuum of services
- Strategic planning to address the growing senior population
- Loss of leaders: Strategic recruitment and retention

Planning for possible new funding. As part of its role in planning for the best use of new funding, LSCC member groups such as the Trust Fund Program and Legal Aid Association of California (LAAC) held three meetings throughout the state with legal services programs to discuss how to use additional funding from the influx of new money. Program directors discussed priorities and gaps, and how to use any new funding. They emphasized rural imbalance as a priority and discussed how to develop effective collaborations between rural and urban programs. They are interested in setting aside or earmarking a percentage of the Equal Access Fund for specific priorities like rural programs.

Three meetings were convened this year with the LSC Project Directors to discuss strategic planning for the best use of possible new funding – how best to use new funding, both to address the gaps we have as well as showing the impact of new funding and its continued need. The following list of topics were the priorities presented by the project directors:

- Retention and Recruitment of Staff
- Rural Needs and Response
- Capacity and Organizational Infrastructure
- Collaboration and Coordination in Delivery of Services
- Increasing Systemic Advocacy and Representation
- Specific Client Populations
- Eliminating Barriers to Legal Services Programs

Rural Task Force

The Rural Task Force had two areas of focus in 2007. First, members of the Task Force put a significant amount of effort into development of the rural needs section of the *Action Plan for Justice*. The Task Force also continued to analyze the problems facing rural legal services delivery as well as some possible solutions to those challenges, working closely with the Public Interest Clearinghouse and the LSC Project Directors from rural areas. This analysis will be included in the policy paper that is being developed to clarify the issues and recommend specific next solutions. The policy paper will be published in 2008.

The Path to Equal Justice focused attention on the fact that there is a scarcity of resources in rural areas, and that rural areas face unique challenges, such as formidable geographic and language barriers, lack of transportation, and limited staff and referral services. The Task Force has been considering ways to address these challenges. Rural access remains a high priority.

Pro Bono Task Force

The Pro Bono Task Force is pursuing two specific proposals to increase pro bono. These two projects are intended to implement recommendations 8 and 9 of *The Action Plan for Justice:*

- First, the Task Force is analyzing the possibility of establishing a pro bono outreach project, to facilitate pro bono by small firms and solo practitioners. This project envisions a local pilot project as a way to begin to increase statewide support for local and regional efforts to encourage more pro bono.
- Second, the Task Force is developing a specific Judicial Support Project, with a toolkit for judges, best practices, sample materials, and local coordination efforts.

The work of the Task Force is designed to supplement the work being pursued by the State Bar Standing Committee on the Delivery of Legal Services, as well as the local pro bono campaigns in Los Angeles and San Francisco.

Model Statute Task Force

A model statute was prepared by this Task Force providing for a comprehensive right to counsel in civil cases. The model statute is widely disseminated throughout the country, and is currently posted on the Equal Justice Center and Brennan Center web sites. The Task Force has been coordinating with other states, through the National Coalition for a Civil Right to Counsel, and significant input was offered by a group of advisors from other states who have worked on this issue. The model statute addresses the role of full-scale representation, unbundled services, lay advocates, as well as self-help assistance; the statute also includes legal representation for both poor and moderate-income litigants.

During 2007, the Task Force focused on developing a draft of the "limited scope of services" proposed statute. The draft of this State Basic Access Act (the narrower version of the model statute) was circulated to a national group of confidential reviewers for comments. Their comments were synthesized by the Task Force into the new draft, which will be distributed for formal approval at the first meeting of the Commission in January 2008.

A $5 million Pilot Project on legal representation in civil cases was included in the Governor's proposed budget in 2007, with active support from Chief Justice Ronald M. George. As the project was being developed, there were several issues to consider including where the pilot projects could be established, how they would coordinate with local services, and how priority setting would be accomplished, as well as how the work would be evaluated.

A Joint Advisory Task Force on the Proposed Legal Representation Pilot Project was formed, and included representatives from the Judicial Council, the Commission on Access to Justice, and the Legal Aid Association of California. Draft recommendations for this pilot project were presented at the Statewide Legal Services Stakeholders Conference to solicit feedback from the legal services community. Although funding was ultimately not approved, work continues on this project through analysis of best practices and documentation of the need for and the role of representation.

Committee to Enhance Access & Delivery/Barriers Project

This Committee has been developing a plan to 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, etc.). Work has continued on analyzing intake and referral procedures, needs assessments, and how to best allocate limited resources within our legal services delivery system. This Committee also provided input on delivery issues and the continuum of service for the *Action Plan for Justice*.

There are three primary challenges for the Access & Delivery committee to address:

- Analyzing appropriate methods to ensure that mechanisms are in place to refer individuals to the appropriate service, where they can receive the level of assistance they need;
- Analyzing justice-system-created barriers and recommending ways to reduce or eliminate those barriers; and
- The traditional economic and language barriers that the Access Commission has been addressing since its inception.

Appointing Entities and Members - 2007
California Commission on Access to Justice

Governor, State of California Honorable Julius M. Title, Ret. Los Angeles **Appointment pending**	**Judicial Council of California** Honorable Steven K. Austin Superior Court of Contra Costa County Martinez Honorable Ronald Robie Third Appellate District Sacramento
President Pro Tem of the Senate Rozenia Cummings San Ramon	**California Council of Churches** Robin Clinton Crawford Pacifica, CA
Speaker of the Assembly Appointment pending	**League of Women Voters of California** Sylvia Martin-James, Retired Educator Riverside
California Attorney General Ramon Alvarez Riverside	**California Chamber of Commerce** Erika C. Frank General Counsel – California Chamber of Commerce Sacramento
California Judges Association Honorable James Mize	**California Labor Federation** Vacant
Consumer Attorneys of California David A. Rosen Rose Klein & Marias Los Angeles	**Council of California County Law Librarians** Marcia Bell, Director San Francisco Law Library

State Bar of California

Kenneth W. Babcock
Public Law Center
Santa Ana

Sheila Calabro
Judicial Council of California
Burbank

Joseph L. Chairez
Baker & Hostetler LLP
Costa Mesa

Kathryn Eppright
Andre Morris & Buittery LLP
San Luis Obispo

Michael J. Loeb
JAMS
San Francisco

Robert A. Long
Latham & Watkins LLP
Los Angeles

Hon. Nho Trong Nguyen
Superior Court, Orange County
Westminster

Ekwan E. Rhow
Bird Marella et al. APC
Los Angeles

John G. Snetsinger
Department of History
California Polytechnic University
San Luis Obispo

Eric Wayne Wright
Santa Clara University
School of Law