



Annual Report 2011 – 2012

September 2012

Wisconsin Access to Justice Commission

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My Fellow Wisconsinites:

An unemployed man in Racine, a disabled woman in Superior, a child in Oshkosh, an elderly woman in Rhinelander, a veteran in Juneau, a low wage worker in Janesville. What do these people have in common? They are typical examples of fellow citizens who face serious legal problems but cannot afford professional legal assistance from a lawyer. The most common types of legal problems involve family law, consumer finances, employment, disability law, housing law, public benefits and wills.

Unlike the criminal justice system, there is no guarantee to a lawyer's assistance with civil legal problems. Without legal help, people with civil problems who cannot hire a lawyer or access other resources are left to navigate a legal system that they don't understand, often with disastrous consequences.

Lawyers volunteer thousands of hours every year to help low-income people with legal problems, and every Wisconsin lawyer contributes \$50 each year to help support organizations that provide a range of legal aid services. Those organizations serve thousands of low-income and vulnerable Wisconsin residents every year. But thousands of other people who are just as deserving still cannot get the legal help they need, because legal service providers must turn away at least one eligible client for every person they serve due to a lack of resources.

Our court system is struggling with the challenges posed by the numbers of self-represented litigants it must handle. Our judges must maintain their impartiality while avoiding injustice in the courtroom.

Local and county budgets are left to pay for the emergency services needed to serve people who could have been served earlier and at much lower cost if they had the routine legal help they needed to protect basic needs like safety, housing, employment, food, children or health care.

The Wisconsin Access to Justice Commission is responsible for finding workable solutions to this profound set of societal problems in our justice system. On behalf of my fellow Commission members, I thank you for taking the time to read this annual report, learning more about the issues and helping in any way you can.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregg Moore". The signature is written in a cursive, somewhat stylized font.

Gregg Moore
President, Wisconsin Access to Justice Commission

Preface

The Wisconsin Access to Justice Commission was established by the Wisconsin Supreme Court in 2009. Our mission is to develop and encourage means of expanding access to the civil justice system for unrepresented low income Wisconsin residents.

In creating the Commission, the Supreme Court was responding to the vast unmet civil legal needs faced by low income Wisconsin residents. The State Bar of Wisconsin in its 2007 report, [Bridging the Justice Gap: Wisconsin's Unmet Legal Needs](#), documented those needs.

The Commission is a non-profit organization consisting of a 17-member board of directors, with members appointed by the Supreme Court, Governor, President of the Senate, Speaker of the Assembly, State Bar of Wisconsin, deans of the Marquette University and University of Wisconsin Law Schools, and the board of the Wisconsin Trust Account Foundation (see Appendix A). The State Bar of Wisconsin currently provides financial and staff support to the Commission.

Overview

During its recently completed second year of operations (July 1, 2011 to June 30, 2012), the Access to Justice Commission has continued its efforts to help bridge the access to justice gap.

Most of the Commission's efforts are coordinated and led by members of the following four committees:

1. Delivery of Legal Services Committee
2. Courts and Administrative Tribunals Committee
3. Research and Resource Development Committee
4. Public Awareness and Justice Education Committee

These committees typically meet by conference call on a monthly basis, while the Commission itself meets quarterly. Meeting minutes, background material and relevant links are available on the Commission's website, www.wistaj.org.

The Access to Justice Commission has focused on initiatives that will provide both short-term and long-term benefits. The Commission recognizes that developing and implementing meaningful and sustainable improvements in the civil justice system requires a collaborative, multi-prong approach. By working with legal service providers, community leaders, State Bar of Wisconsin, local attorneys, Supreme Court justices, judges, legislators, county officials, access to justice commissions from other states, and others, the Commission expects to successfully fulfill its mission.

The Commission held its annual meeting with the Wisconsin Supreme Court in March to report on the Commission's work, answer questions, and solicit guidance and suggestions. In addition, Commission President Gregg Moore made presentations to the State Bar of Wisconsin's Board of Governors in December and June.

Accomplishments and Highlights

In the past year, the Commission has been actively engaged with the following projects:

1. Funding for legal services – The Commission provided substantial support to the ultimately unsuccessful efforts to maintain the state appropriation for civil legal services to the indigent. Similar efforts were undertaken to communicate to Congress the importance of maintaining adequate funding for the Legal Services Corporation.
2. Justice for Troops Act – The Commission joined the State Bar in supporting Senator Kohl's legislation to allocate funding in the Department of Defense budget for pro bono projects that assist service members facing legal issues that affect their military readiness. The provision was adopted and signed by the President as part of the defense budget.
3. Limited scope representation – Gregg Moore and Jeff Brown, the Commission President and staff liaison respectively, served on the Limited Scope Representation subcommittee for the Wisconsin Supreme Court's Planning & Policy Advisory Committee. That subcommittee reviewed rules and forms adopted in other states to assess whether changes should be made in Wisconsin to support and encourage the growth of limited scope representation as a way to reduce the numbers of self-represented litigants in the court system.
4. Code of Judicial Conduct – Commission members attended the Wisconsin Judicial Conference to talk with judges about their views on changes to the ABA Model Code of Judicial Conduct that have been adopted in a number of states to clarify steps that judges may take to both protect the integrity of the judicial process and preserve their impartiality when faced with self-represented litigants in court.
5. Video project – The Commission completed work on an outreach and education video to emphasize the importance of a broader commitment to maintaining access to justice in a society that is based on the rule of law.
6. Appointment of counsel – The Commission voted to support the principles that the right to counsel petition incorporated because the Commission believes that an increase in the appointment of counsel by courts is part of the range of solutions that will be needed to improve access to justice in Wisconsin. Toward that end, the Commission has assembled a working group to design a pilot project that would help answer some of the questions raised during the debate over the right to counsel petition. At the same time, members of the Courts and Administrative Tribunals Committee have been travelling to each judicial district to talk to judges about the inherent authority they already possess to appoint counsel in certain civil cases.
7. Cy pres – The Commission is working with a range of interested groups to develop educational materials for lawyers and judges to build awareness that class action residuals can be used to support civil legal services to the poor. The effort is based on success education efforts in other states such as Illinois.
8. Tribal courts – The Commission worked in collaboration with Wisconsin Judicare's Indian Law Office on a project to assess the prevalence and impact of self-represented litigants in tribal courts. With the assistance of the Tribal Judges Association and other partners, the Commission is also exploring possible solutions that are tailored to the needs and cultures of those courts.

9. AmeriCorps – The Commission worked with representatives from the court system to explore the requirements for participating in a multi-state application for positions to replicate a successful “JusticeCorps” project in California. The project would involve using AmeriCorps participants to supplement existing attorneys and court staff who work with self-represented litigants. Although the decision was made to forgo participating in this year’s multi-state grant competition, the Commission and the court system remain interested in this intriguing program and will watch with great interest to see how a proposed federally funded program in Milwaukee might be adapted to help other judicial districts.
10. Legal Services Resource Mapping Project – With the assistance of Marquette University Law School faculty and students, the Commission is collecting data on the resources available in each county to meet the civil legal needs of low income residents. The information, from a variety of public and private sources, covers funding for legal services, county demographics, available attorneys, the prevalence of particular types of legal problems, available legal assistance services and more. The goal is to give the Commission and policymakers in Wisconsin a more complete (and more localized) look at the state of access to justice in Wisconsin.

Outreach to individuals and groups outside the legal community is also a key function for the Commission. The message we carry is two-fold: (1) access to justice affects us all, regardless of your group’s primary mission; and (2) this problem is one that lawyers cannot solve on their own without help from others who have an even greater stake in the outcome. During the past year, the Commission met with the following organizations to convey that message and gather valuable suggestions about how to carry the message further.

1. Donors Forum of Wisconsin – We met with DFW staff and attended the organization’s annual conference of foundations to explore ways that access to justice issues might be included in DFW programs and grant-making decisions by foundations statewide.
2. Marquette University Community Transformation Project – We met with faculty and members of the community to discuss how their use of “community conversations” might be able to increase public involvement in shaping the responses of communities and policymakers to social challenges that have an access to justice dimension.
3. Community Advocates – We met with the policy staff of this social services organization to gather suggestions and to explore ways that access to justice concerns could be incorporated into the advocacy work that this organization regularly conducts on a wide range of issues affecting families who are eligible for civil legal aid.
4. Presentations – Commission members presented on access to justice issues and the Commission’s goals at events for the Portage County Bar Association and the statewide 2011 Poverty Matters conference organized by Wisconsin Community Action.

The Year Ahead

In addition to continuing many of the initiatives already underway, the Commission also has two other major activities planned: (1) hold six public hearings around the state to gather information about and raise awareness of access to justice issues and (2) restore state funding for low-income civil legal services in Wisconsin.

The public hearings will provide a valuable opportunity to educate the Commission, legislators, judiciary, community and business leaders, and the general public on the state of legal services and the unmet civil legal needs of citizens. Locations of the public hearings will be Eau Claire, Green Bay, La Crosse, Madison, Milwaukee and Wausau.

The Commission will be working with many organizations and individuals to help restore funding for civil legal services in the FY 2013-2015 state budget. This will include seeking the support of leaders in all three branches of state government.

Conclusions

Delivering on the promise of equal justice under the law is as important as the promise itself. Notwithstanding the services currently available, significant unmet legal needs exist across the state. The Access to Justice Commission is committed to fulfilling the Supreme Court's mandate to "develop and encourage means of expanding access to the civil justice system for unrepresented low income Wisconsin residents."

APPENDIX A

ACCESS TO JUSTICE COMMISSION MEMBERS 2011-2012

John Bermingham is an attorney in private practice with Reff, Baivier, Bermingham, & Lim, S.C. in Oshkosh. He was appointed to the Commission by the Wisconsin Trust Account Foundation (WisTAF).

Howard Bichler is an attorney with the Forest County Potawatomi. He was appointed to the Commission by the State Bar of Wisconsin.

Prof. Rebecca Blemberg teaches Legal Writing & Research at Marquette University Law School in Milwaukee. She was appointed to the Commission by Marquette Law School.

Jeffrey Brandt is an attorney in Menasha. He was appointed to the Commission by Senate President Michael Ellis.

Duana Bremer is the Social Service Director for The Salvation Army in Polk, St. Croix and Burnett Counties. She was appointed to the Commission by Governor Jim Doyle.

Hannah Dugan is an attorney in private practice in Milwaukee. She was appointed to the Commission by the State Bar of Wisconsin and is the Commission's Treasurer.

John Ebbott is the Executive Director in Milwaukee of Legal Action of Wisconsin, which provides free legal services to low income clients in southern Wisconsin. Ebbott was appointed to the Commission by the Wisconsin Supreme Court.

Ness Flores is an attorney in private practice with Flores & Reyes Law Office in Waukesha. He was appointed to the Commission by the chair of the State Bar's Legal Assistance Committee.

Don Friske is a small business owner in Merrill, Wisconsin and a former member of the Assembly. He was appointed to the Commission by Assembly Speaker Jeff Fitzgerald.

Gregg Moore has served on the Eau Claire County Board of Supervisors since 2004 and as Board Chair since April 2008. Moore was appointed to the Commission by the Wisconsin Supreme Court and serves as President of the Commission.

Prof. Marsha Mansfield is a Clinical Associate Professor at the University of Wisconsin Law School in Madison. She was appointed to the Commission by the Law School and serves as the Commission's Secretary.

Lisabeth Marquardt is a program director in charge of strategic program initiatives at the Sojourner Family Peace Center in Milwaukee. She was appointed to the Commission by the Wisconsin Supreme Court.

Deedee Rongstad is the Development & Information Director for Legal Action of Wisconsin in Milwaukee. She was appointed to the Commission by Governor Jim Doyle.

Fr. Bill Ribbens is a member of the Norbertines of St. Norbert Abbey in De Pere. Fr. Ribbens was appointed to the Commission by the Wisconsin Supreme Court.

Maurice G. Rice, Jr. is Of Counsel with the law firm of Anderson, O'Brien, Bertz, Skrenes & Golla in Stevens Point and a founder of the Portage County Legal Aid Society. He was appointed to the Commission by the Wisconsin Supreme Court.

Susan E. Sorenson manages the Ripon office of Sorenson Law Office and a former member of the Wisconsin Trust Account Foundation board. She was appointed to the Commission by Governor Scott Walker.

Hon. Margaret Vergeront served as a judge on the Wisconsin Court of Appeals for District IV based in Madison from 1994 until her retirement in July 2012. She was appointed to the Commission by the State Bar of Wisconsin.

Staff: Jeff Brown, Becky Head