

The History, Purpose, and Importance of the Access Commission

The California Access to Justice Commission was born of the initiative and foresight of a dynamic group of individuals, including California State Bar leadership, judges, attorneys, and other stakeholders, who recognized the need to respond to the inadequacy of California's efforts to ensure equal access to justice for all Californians. In March 1993, the State Bar appointed the Access to Justice Working Group and charged it with developing a long-term, interdisciplinary approach to achieving equal access across the state. Chaired by Justice Earl Johnson, Jr., of the California Court of Appeal, the working group included private bar leaders, legal services lawyers, pro bono coordinators, alternative dispute resolution experts, law professors, social scientists, and members of the judiciary. Its three years of study culminated in the 1996 report "*And Justice for All: Fulfilling the Promise of Access to Civil Justice in California*," which included 12 findings, 13 recommendations, and 15 options regarding funding for increased legal services.

Among the report's primary recommendations (Recommendation No. 2) was creation of a California Commission on Access to Justice. The report called upon the State Bar to take the lead in establishing the Access Commission, but noted that a broad-based commission was essential and the challenge was beyond the ability of the organized bar, or any single entity, to solve alone:

"An on-going, broad-based California Commission on Access to Justice should be established to implement the findings and recommendations contained in this report. No single entity can solve a problem of the magnitude of providing access to civil justice for all Californians. There must be a coordinated effort among the public, attorneys, and the private sector."

The Working Group explained:

"Our ultimate goal is to broaden support for access to justice issues inside and outside the legal community and make an ordered transition from the Working Group to an ongoing California Commission on Access to Justice."

In July 1996, the State Bar Board of Trustees (then referred to as Governors) unanimously adopted the report "*And Justice for All: Fulfilling the Promise of Access to Civil Justice in California*," and in September

1996, approved the creation of the Access Commission, under the auspices of the State Bar, to develop, analyze, and pursue the findings, recommendations, and funding options contained in the report. The State Bar appointed ten of the original 21 members, and identified other initial appointing entities. The Access Commission, which began meeting in 1997, was expressly intended to include both lawyers and non-lawyers and constitute a broad-based coalition. The Board set forth the Access Commission's role as follows:

“The role of the Commission will be to provide ongoing leadership in the effort to achieve fuller access to justice in California, working closely with other interested parties, and to oversee efforts to increase funding and improve methods of delivery of legal services for the poor and those of moderate income.”

As it developed over the years, the Access Commission became a collaborative effort involving all three branches of government as well as judges, lawyers, professors, and business, labor, and civic leaders, and has operated autonomously from the State Bar issuing reports, taking positions on legislation, and pursuing initiatives in its own name. Currently, the Access Commission has 26 members. The State Bar continues to appoint ten members and 14 separate entities now appoint the remaining 16 members. Those entities are: the Governor (two positions), President Pro Tem of the Senate, Speaker of the Assembly, California Attorney General, California Supreme Court, Judicial Council of California (two positions), California Judges Association, Council of California County Law Librarians, Consumer Attorneys of California, California Chamber of Commerce, California Labor Federation, League of Women Voters, California Council of Churches, and the Legal Aid Association of California.

Membership on the Access Commission has included people with significant involvement in and knowledge of legal services and access to justice issues. The Commission also seeks a balance of members from around the state as well as from urban and rural settings; a balance of judges, lawyers, court administrators, and civic leaders; and ethnic, racial, and gender diversity.

The Access Commission works through several committees that change and evolve, and include or have included: Administrative Agency Committee, Amicus Curiae Committee, Communications and Outreach

Committee, Communications and Public Education Committee, Executive Committee, Federal Courts Committee, Fines and Fees Committee, Funding Committee, Judicial Branch Support Committee, Language Access Committee, Limited Scope Representation Committee, Modest Means Committee, Nominating Committee, Pro Bono Coordinating Committee, Right to Counsel Committee, Rural Task Force Committee, Technology Committee, and 100 Percent Access Committee.

The Access Commission strength and success is derived from three factors:

1. Its broad-based participation, which generates insight from the spectrum of interests;
2. Its independence, which allows the Commission to raise awareness even on issues when individual appointing authorities may for any number of reasons be constrained; and
3. The Commission's intentional and scrupulous dedication only to access to justice, without regard to the parochial interests of any individual appointing authority.

This operational structure has been successful for the last two decades. The importance of the Access Commission can be seen from examples of its initiatives and publications:

- Development of reports on key access issues, see list below.
- Instrumental in advocating for funding for legal aid in California, including establishment of the Equal Access Fund and support for increased funding;
- Analysis of the growing justice gap in California and recommending solutions;
- Starting the Modest Means Incubator Project;
- Creation and support for limited-scope representation;
- Pushing for greater language access;

- Focusing on improving justice in rural parts of California;
- Encouraging and supporting pro bono efforts by the private bar;
- Investigating and promoting a civil right to counsel on critical legal issues affecting basic human needs;
- Filing Amicus Briefs on issues impacting access to justice;
- Supporting or commenting on legislation impacting access to justice;
- Coordination with the legislature, the Judicial Council, the California Supreme Court, and the Governor's office, in support of development and implementation of the Sargent Shriver Civil Counsel Act, funding innovative pilot projects providing legal representation to low-income Californians;
- Coordination and collaboration with its appointing entities on various access issues, including the California Supreme Court, the Judicial Council of California, the Legal Aid Association of California, and other stakeholders, as well as Access to Justice Commissions from other jurisdictions;
- Commenting on public policy initiatives such as the disparate impact court fines and fees have on low and moderate income individuals, the importance of funding the courts.

Example publications and reports include:

- *"Incubator Guide,"* a publication of the California Commission on Access to Justice, October 2014;
- *"Improving Civil Justice in Rural California,"* a report of the California Commission on Access to Justice (including 7 recommendations), September 2010;
- *"Action Plan for Justice,"* a report of the California Commission on Access to Justice (including 27 recommendations), April 2007;

- *“Language Barriers to Justice in California,”* a report of the California Commission on Access to Justice (including 5 recommendations), September 2005;
- *“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 (including 9 recommendations), October 2002;
- *“Report on Limited Scope Legal Assistance with Initial Recommendations,”* a report of the California Commission on Access to Justice, October 2001.

In the broader context, the Access Commission’s efforts supplement work on access issues by other entities, including by appointing entities such as the California Supreme Court, the Judicial Council, the State Bar, the Legal Aid Association of California, and others. And while California’s Access Commission was one of the first in the nation, now more than 30 states have an Access to Justice Commission.

American Bar Association Information About Access Commissions

The American Bar Association (ABA) has recognized the importance of engagement with, and independence from, the organized bar. The ABA defines an Access to Justice Commission as:

- It is a high-level commission or similar formal entity composed of leaders representing, at minimum, the state (or equivalent jurisdiction) courts, the organized bar, and legal aid providers. Its membership may also include representatives of law schools, legal aid funders, the legislature, the executive branch, and federal and tribal courts, as well as stakeholders from outside the legal and government communities.
- Its core charge is to expand access to civil justice at all levels for low-income and disadvantaged people in the state by assessing their civil legal needs, developing strategies to meet them, and evaluating progress. Its charge may also include expanding access for moderate-income people.

- Its charge is from and/or recognized by the highest court of the state; the highest court and the highest levels of the organized bar are engaged with the Commission's efforts and the Commission regularly reports to one or both of them.

- Its primary activities relate to planning, education, resource development, coordination, delivery system enhancement, and oversight; it is not primarily a funder or direct provider of legal assistance.

- It meets on a regular basis and has ongoing responsibility for carrying out its charge.

Further, the ABA identifies characteristics that have made Access to Justice Commissions successful, including active engagement and leadership by not just the organized bar but the highest court and others resulting in a high level of credibility and visibility for Commission initiatives, and encompassing the viewpoints of the different institutions represented on the Commission, not limited to the views and perspectives of the state bar or to that of any one particular institution.

The ABA definition can be found here:

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_definition_commission.authcheckdam.pdf

The ABA also has identified the hallmarks of effective Access to Justice Commissions:

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_hallmarks.authcheckdam.pdf