

VII. OBJECTIVES FOR 2014-2016

Since its inception, the Commission and its committees have been seeking, compiling, and analyzing information about access to justice issues and needs in West Virginia. After completing its analysis of the information received to date, the Commission reviewed the directives contained in the Administrative Order establishing the Commission, its Report and Recommendations, recommendations from various Commissioners, the strategic plans of other states' Access to Justice Commissions, and recommendations arising from the Commission's ad hoc Strategic Plan Committee, the Commission selected six main objectives for this Strategic Plan for calendar years 2014-2016. These objectives were selected because the Commission believed that they would provide the greatest benefit to the largest number of West Virginians seeking access to or experiencing barriers in accessing the civil legal system. These objectives also comply with and advance the specific directives placed on the Commission by the 2013 Administrative Order of the Court.

1. Self-Help Centers

a. Physical Self-Help Center (Clarksburg, West Virginia)

The Commission supports the development, staffing, and operation of a physically located self-help center. The Commission voted to recommend to the Court the establishment of a physical self-help center to be located at the law library in the Harrison County Courthouse. Reports to the Commission indicate that this particular law library is accessed regularly by the public. The Commission supports a physical self-help center to provide assistance in several ways. First, a self-help center which is accessible to those who are more comfortable with a walk-in approach to conduct research, fill out forms, ask questions, or access a computer would be served with a center located in the current Harrison County Law Library. Second, in order to provide assistance to the entire State, the Commission supports the establishment of a toll-free phone service, answered by an appropriately trained staff person who is physically located in the Harrison County Law Library. Third, the physical self-help center would provide support for the potential online self-help center to be located on the Court's website.

b. Online Self-Help Center (Court's Website)

i. Forms

The Commission supports the development of Court-approved, plain language forms to be accessible and available on the Court's website. For those who seek to navigate the West Virginia court system on their own, accessibility to Court-approved plain language forms is vital. The Commission proposes to work with the appropriate divisions within the Administrative Office of the Courts to develop Court-approved plain language forms which will be available on the Court's website.

ii. Internet Access to Assistance for Self-Represented Litigants

The Commission supports and encourages an online self-help center to provide assistance, forms, and general information for the general public. The Commission recognizes that the internet has become the "go to"

resource for information. The great majority of people have access to the internet in some way, whether it is in their own home, through a friend or relative, a cell phone, a public library, a church, or some other entity. The Commission believes that the most effective way to provide assistance to the broadest group of people seeking to navigate the court system is to develop, implement, and maintain an online self-help center accessible through the Court's website to provide access to instructions, Court-approved forms, frequently asked questions, and other areas of specific interest to self-represented litigants and others needing assistance in navigating the civil justice system. The Commission proposes to work with the appropriate entities within the Administrative Office of the Courts to develop an online self-help center that would answer questions, provide guidance, and make available plain-language, fillable, Court-approved forms.

2. West Virginia Online Legal Assistance Help Center

The Commission endorses a West Virginia Online Legal Assistance Help Center to assist those who have legal questions and to provide attorneys with the opportunity to provide pro bono legal assistance. The Commission supports the implementation of a project, via a partnership between Legal Aid of West Virginia and the West Virginia State Bar, mirroring OnlineTNJustice.org. The Commission, via its Director, introduced the project to Legal Aid of West Virginia and The Lawyer Information Service/Lawyer Referral Service Committees of the West Virginia State Bar and encouraged the development of the project for use in West Virginia. The project is based on a walk-in clinic or dial-a-lawyer model where clients request brief advice and counsel about a specific civil legal issue from a volunteer lawyer. Lawyers provide information and basic legal advice without any expectation of long-term representation. The system screens clients for eligibility, and, if qualified, allows them to post a question to a private messaging system. The questions are answered by private attorneys volunteering their time. A client has the ability to check the system for answers at any time and the attorney has the ability to answer a question at a convenient time from anywhere via his or her computer. Only the name of the client is shared with the volunteer attorney providing assistance. This project provides assistance to those who may be turned away from Legal Aid due to funding cuts or statutory restrictions and provides an opportunity for attorneys to engage in pro bono work. The Tennessee project has agreed to license the program, free of charge, to any access to justice organization which will use it to provide pro bono services.

Because of the pro bono public nature of the limited scope representation provided in this project and because of the probable involvement of Legal Aid of West Virginia as the administrator, the general rules for lawyers as to conflicts of interest do not apply to lawyers' participation in the project. The Commission does, however, recommend a change to the West Virginia Rules of Professional

Conduct to address conflicts of interest that the lawyer actually knows of at the time he or she receives or answers a client's question.

3. Pro Bono Support Efforts

The Commission recognizes that the Court has direct influence on lawyers, and thus a crucial component of its Strategic Plan is to focus on voluntary lawyer participation in pro bono opportunities. Although the current economic climate makes resources scarce, it is important to remember that the time and expertise of lawyers are critical resources. One of the Commission's primary goals is the involvement of more lawyers as volunteers to meet the legitimate, unmet civil legal needs of West Virginia citizens.

Lawyers should be encouraged, creatively and consistently, to do pro bono work. The Commission proposes to work with the West Virginia State Bar and Legal Aid of West Virginia to establish a more comprehensive pro bono referral network across the State to match interested and successfully recruited volunteer lawyers with pro bono opportunities. While lawyers do generously volunteer their time, resources are required to screen clients, organize advice clinics, recruit and assign more volunteers, provide malpractice insurance coverage for the volunteers, and orchestrate a system of regular and smooth referrals. Legal Aid of West Virginia has an effective system in place to do this, but only certain clients are eligible for these services and more resources are needed to recruit lawyers. A more comprehensive pro bono referral system is needed for non-Legal Aid eligible clients.

In order to bring about systemic change, the Commission recommends a voluntary pro bono referral system that will:

- a. Match cases and clients in need to volunteer lawyers across the State;
- b. Explore ways to provide malpractice insurance for pro bono lawyers in expanded pro bono settings;
- c. Facilitate multi-organizational support and collaboration (including Legal Aid of West Virginia, West Virginia Senior Legal Aid, bar associations, mediation groups, faith-based organizations, and many other service providers and organizations); and
- d. Use technology to provide statewide services.

The Commission recommends and supports the following:

- a. Planning a Pro Bono Summit by the Commission's Pro Bono Committee to educate, encourage, and provide pro bono opportunities for members of the Bar.

- b. Analyzing the viability of proposing legislation that provides for civil negligence immunity for attorneys who undertake certain civil pro bono cases (i.e., domestic relations, landlord/tenant cases, etc.) in order to reduce the concerns of attorneys over liability from taking on pro bono work.
- c. Developing and implementing a strong pro bono network across the State, coordinating with the West Virginia State Bar, Legal Aid of West Virginia, West Virginia Senior Legal Aid, the West Virginia University College of Law, and other interested organizations by the following:
 - i. Working with the West Virginia University College of Law to promote the growth and expansion of programs which foster and encourage law students to participate in pro bono opportunities and its clinical law program;
 - ii. Supporting law school programs that encourage future lawyers to engage in pro bono legal assistance as part of their ongoing professional development;
 - iii. Exploring the establishment of an Access to Justice Summer Internship program to allow for student interns to volunteer at recognized legal aid programs during the school year;
 - iv. Encouraging law schools to provide scholarships to qualified students who will commit to a minimum of three years of service with a legal aid provider; and
 - v. Encouraging law schools to provide fellowships for students to work with legal aid providers.

4. Education and Action: Attorneys, Judges, Magistrates, Law Enforcement, Clerks, Legislators, Executive Officials, and the General Public

A critical component of the Commission's activities moving forward will be to develop and foster strong collaborative relationships with state and local bar associations, the judiciary, magistrates, law enforcement, clerks, legislators, executive officials, and others. Also critical to furthering the Commission's goals is the ability to provide better information to the public across the State, including self-represented litigants, policymakers, general social service providers, the faith-based community, and others. This outreach would also include serving targeted groups, such as those with language barriers and disabilities, who face special barriers with access to justice. The Commission is acutely aware of the need to help the public obtain better information and navigate the legal system on a day-to-day basis and to educate those who encounter individuals requiring assistance on recognizing what the needs are and relaying what is available to meet those needs. The Commission, through its committees, will explore the development of projects, informational events, continuing legal education opportunities, written materials, and other means to forge partnerships and informational opportunities for those needing or providing legal assistance.

a. Education

In order for the Commission to be effective, people need to be aware of its existence and its mission. The Commission must be proactive in educating members of the Bar, the judiciary, magistrates, law enforcement, clerks, legislators, executive officials, and the general public about the Commission and its goals. There are many mechanisms by which to provide information and education, some of which may include the following:

1. Developing emails, direct mails, meetings, clinics, videos, and other creative means concerning the barriers experienced by those who need to navigate the civil justice system.
2. Introducing the Commission's Report, Recommendations, Strategic Plan, and future projects to the legal community via the State Bar Blast and other methods.
3. Developing articles and/or ads for publication in the West Virginia Lawyer Magazine.
4. Increasing the Commission's presence among the Bar, the judiciary, magistrates, law enforcement, clerks, legislators, executive officials, and the general public.
5. Delivering information through the press about the work of the Commission and educational or informational opportunities sponsored by the Commission.
6. Exploring the potential for a presence on social media to provide information about the work of the Commission and educational and informational opportunities sponsored by the Commission.
7. Creating a Commission logo for use on official documents, correspondence, and other appropriate materials.
8. Offering training by developing and conducting an educational campaign for attorneys, judges, magistrates, law enforcement, clerks, legislators, and executive officials on the rights and needs of self-represented litigants in the civil justice system and how to facilitate the relationship.
9. Developing and implementing continuing legal education (CLE) opportunities to educate attorneys and judges about the practice of "unbundling", or "limited scope representation", of legal services as a means to provide legal services to those of low or modest means.
10. Updating and maintaining the Commission's webpage.
 - i. The Commission seeks to develop its webpage, located on the Court's website at <http://www.courtswv.gov/court-administration/access-to-justice.html>, as a "one-stop" location where those who are experiencing barriers to the civil justice system go for help or guidance about where to go for help.
 - ii. The Commission's webpage should be updated and maintained to include information that would be helpful to the public, including, but not limited to, the following: links to forms; legal services information, including links to Legal Aid of

West Virginia, the Family Refuge Center, Veterans' assistance, West Virginia Senior Legal Aid, domestic violence assistance, and others; the online self-help center when established; the physical self-help center information when established; educational opportunities; informational clinics; and the West Virginia Online Legal Assistance Help Center project.

b. Action

The Commission, via its committees, should take an active role in the development of projects and programs which are responsive to the needs of West Virginians in accessing the civil justice system. The Commission should be proactive in creating or supporting opportunities for providing assistance to self-represented, low income, and modest means litigants through attorneys, judges, magistrates, law enforcement, clerks, legislators, and executive officials.

1. The Commission recommends expansion of committee membership to include non-attorneys, those who specialize in particular interest areas and are in charge of or have involvement with certain interest groups, and those who may have experienced barriers in particular areas within the civil justice system. Having broad-based committee membership provides the Commission with diverse ideas and provides opportunities to bring those with common interests together to solve problems affecting particular interest groups.
 2. Recognizing that new problems and barriers concerning access to the civil justice system may continue to be brought to the attention of the Commission, it will be necessary for the Commission to develop and create new committees to address concerns that do not fall under the purview of already established committees. The membership of new committees should include lawyers and non-lawyers, and representatives of groups with common interests in the issues to be addressed by the newly formed committees, as well as others with interests, knowledge, expertise, and/or experience in the subject matter to be addressed by the committees.
 3. The Commission should help and encourage maintenance and expansion of West Virginia's systems for the delivery of legal services.
- 5. Continue to Examine, Identify, and Analyze Barriers West Virginians Face When Using the Legal System and Address Existing and Proposed Laws, Rules, and Regulations that may Adversely Affect Access to Justice in West Virginia (Short and Long Term)**
- a. **Examine, Identify, and Analyze Barriers**
 - i. Continue to receive input from the general public regarding legal barriers.

- ii. Continue to examine, identify, and analyze barriers as an ongoing duty, including the following: domestic relations, assistance for the disabled, seniors, veterans, landlord/tenant issues, Limited English Proficiency (LEP) litigant issues, workers' compensation, financial barriers (where a legitimate financial need exists in trying to obtain legal representation), and others as they are identified.
- iii. Continue to monitor national trends, issues, and barriers that may affect West Virginia citizens (i.e., implicit bias).

b. Address Laws, Rules, and Regulations

- i. *"Unbundling" or "limited scope representation" rules.* The Commission should review, compare, and monitor the rules governing unbundling or limited scope representation in other states, as well as the American Bar Association's Model Rule, to the current rules in West Virginia. Because providing this type of legal representation to those with legitimate legal needs enables representation and removes barriers to the civil justice system, the Commission should propose any necessary changes to the current rules in West Virginia, as well as educate involved parties and promote the availability of such representation. Specifically, Rule 1.2(c) of the West Virginia Rules of Professional Conduct should be updated to more specifically coincide with the American Bar Association's Model Rule 1.2(c), which addresses limited scope representation.
- ii. *Ghostwriting rules.* The West Virginia Lawyer Disciplinary Counsel's Legal Ethics Opinion 2010-01 is a major barrier to access to justice for those needing legal assistance but unable to afford it. The Commission should work with and recommend to the Court the overruling of the opinion.

6. Funding of Strategic Plan Objectives

- a. Recommend to the West Virginia Access to Justice Foundation the need to obtain stable funding to support the projects and initiatives identified in the Strategic Plan.
- b. Assist the West Virginia Access to Justice Foundation with identifying and obtaining grants that support the projects and initiatives identified in the Strategic Plan.
- c. Work with the West Virginia Access to Justice Foundation to ensure wise and efficient use of available resources.
- d. In collaboration with the West Virginia Access to Justice Foundation, explore potential resources for funding, services, collaboration, and support from the following:
 - i. West Virginia University College of Law, including the Clinical Law programs;
 - ii. Legal Aid of West Virginia;

- iii. Law Firms and individual attorneys; and
- iv. Other individuals and organizations as they are identified.