Recommendations
of the
Supreme Court of Virginia's Access to Justice Planning Committee
to the
Supreme Court of Virginia

Background

In October 2012, the Supreme Court of Virginia received a grant from the American Bar Association to conduct a planning study focused on access to justice needs in Virginia and the role the courts should play in addressing those needs.

Chief Justice Cynthia D. Kinser invited sixteen distinguished professionals to meet in Richmond during late winter and early spring 2013 to discuss civil access to justice needs in Virginia for low income individuals. The Access to Justice Planning Committee, chaired by the Honorable S. Bernard Goodwyn, was tasked with "determining whether an access to justice commission is needed in Virginia and, if so, what functions it should perform and what direction such a commission should take." The members of the Access to Justice Planning Committee are listed on Attachment 1.

The Planning Committee met twice: on February 8 and March 22, 2013. Each meeting lasted several hours, during which time the Committee discussed current strategies being employed to enhance access to justice for low income people and obstacles to providing access to legal services on a more widespread basis. The Committee discussed access to justice commissions in other states and how attributes of those entities might be utilized in Virginia. It also discussed whether proceeding without a formal commission might be preferable in Virginia given a number of factors, including the access to justice efforts currently underway. Committee members noted that, to be effective, a commission must be an active entity that makes measurable progress.

Ultimately, the Committee concluded that an entity such as a commission would be of benefit in Virginia to coordinate and enhance access to justice initiatives. The Committee strongly recommends involvement by Virginia's judiciary – particularly the Supreme Court of Virginia. The judiciary is uniquely able to reach out to the bar, and to encourage and influence attorneys to maximize pro bono service to those in Virginia who would otherwise not have access to legal services.[1]

[1] Staff Comment:

Vision 3 of the current Strategic Plan states that Virginia's courts will maintain human dignity and provide effective access to justice for all persons. Strategy 3.1 begins, "The Judicial Branch will assure that access to the courts is not inhibited because of an individual's race, language, gender, age, disability, or socioeconomic status."

The suggested mission of /charge to this new access to justice commission is fully consistent with the Strategic Plan and sufficiently broad to allow a wide range of future initiatives without necessitating an amendment by the Court. Consistent with similar bodies in other states, the primary initial focus of this commission will be access problems related to the cost and availability of civil legal services.

Recommendation

The Access to Justice Planning Committee recommends that the Supreme Court of Virginia reaffirm its commitment to enhancing equal access to civil legal services for Virginia's underserved by creating a permanent access to justice commission with the attributes described below.

Organizational Title

Virginia Access to Justice Commission

Purpose

Mission/Charge:
To promote equal access to justice, with particular emphasis on the civil legal needs of Virginia residents.

Goals:

- Coordinate access to justice activities in Virginia
- Actively engage the Supreme Court of Virginia, together with Virginia's judiciary at all levels throughout the Commonwealth, in enhancing equal access to justice
- Identify barriers to obtaining needed legal services, and develop solutions
- Mobilize legal professionals in closing the justice gap by:
    - Increasing awareness of the importance of access to justice and the Bar's obligation to help provide it
    - Promoting universal participation among the Bar in providing pro bono publico services, particularly for low income individuals, and transforming legal culture/expectations about doing so
    - Engaging Virginia's law schools in access to justice issues to inculcate a culture of pro bono service among Virginia's newest lawyers while harnessing their time, talents and energy as a part of their formal legal education to assist in the effort of closing the justice gap for Virginia's underserved
- Encourage development of auxiliary resources (such as low-literacy legal information, simpler court forms, technological aids, etc.) for underserved populations
- Strengthen delivery of civil legal services through Virginia's legal aid societies and other pro bono initiatives and nonprofit legal services entities

Proposed Strategies/Tactics:

- Develop a working definition of "Access to Justice"
- Conduct asset mapping of stakeholder groups (i.e., assess what each group can contribute)
- Determine geographic areas where lack of access to justice is most acute, so as to better prioritize/target initiatives
- Map how clients find services

- Develop expertise in efficient provision of pro bono legal services and develop "best practices" to facilitate sharing this expertise among legal communities
- Identify effective "best practices" that are being successfully employed in other states to close the justice gap and promote access to justice, and adapt them for use in Virginia
- Recognize individuals and entities (e.g., attorneys, firms or corporations, law school programs) that provide pro bono services
- Develop an organizational work plan and a reporting capacity for accounting to the Supreme Court

Structure

Membership:

1. The Supreme Court should appoint 15 to 20 individuals from a variety of access to justice stakeholder groups. Suggested representation from stakeholder groups is as follows:

Stakeholder Description	**Number**
Justice of the Supreme Court of Virginia	1
Judge of the Court of Appeals of Virginia	1
Circuit Court Judge	1
General District Court Judge	1
Juvenile and Domestic Relations District Court Judge	1
Trial Court Clerk (in particular, a Circuit Court Clerk)	1
Member, VSB Access to Legal Services Committee	1
Member, VBA Pro Bono Committee	1
At-large Attorneys	2
Law School Dean or Professor	1
Legal Services Corporation of Virginia	1
Legal Aid Organizations	2
Corporate Counsel	1
Statewide Social Services Professional/Client Non-Legal Services Provider (e.g., state agency rep., non-profit rep.)	2

   The Supreme Court may solicit nominations for appointment.

2. The appointees should be divided into three approximately equal sized classes whose members will serve staggered terms. The initial members of Classes I and II would serve one- and two-year terms, respectively, while the members of Class III and all subsequent class appointees would serve terms of three years.

3. Any appointment to fill a vacancy should be for the unexpired term. Any member whose term expires should be allowed to continue to serve until his or her successor is appointed.

4. A member's position on the Commission may be considered to have been vacated if the member no longer serves in the capacity for which he or she was appointed (for example, when a judge retires or corporate counsel is no longer employed as such). However, the

Supreme Court should have discretion to allow the individual to complete his or her full term.

5. Members should be eligible for reappointment at the discretion of the Supreme Court.

Leadership:
The Commission should have two co-chairs. The Supreme Court justice should serve as one of the co-chairs. The Supreme Court should designate one of the other appointees to serve as the other co-chair.

Organization:
The chairs and the inaugural members should determine organizational and operating details.

Staffing:
Initial staff support should be provided by the Office of the Executive Secretary, with in-kind support from other stakeholder groups.

Funding:
Initially, none should be needed because operating costs (primarily staff) will be provided in-kind. The Commission may consider fund-raising options in the future to support its operations. Fund-raising activities would be subject to approval by the Supreme Court of Virginia.

Reporting:
Reports should be made at least once each year to the Supreme Court of Virginia. During the first two years, the Commission should report quarterly.

Submitted May 31, 2013

Attachment 1

Access to Justice Planning Committee

Committee Chair:

The Honorable S. Bernard Goodwyn
Justice
Supreme Court of Virginia

Committee Members:

The Honorable Alfred W. Bates, III
Judge
Suffolk General District Court

Mark D. Braley
Executive Director
Legal Services Corporation of Virginia

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Tara L. Casey
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The Honorable Marilynn C. Goss
Judge
Richmond Juvenile and Domestic Relations
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Southwest Virginia Legal Aid Society, Inc.

George H. Hettrick
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The Honorable Craig D. Johnston
Judge
Prince William Circuit Court

The Honorable Stephen R. McCullough
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Court of Appeals of Virginia

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