



MASSACHUSETTS
ACCESS TO JUSTICE COMMISSION

ANNUAL REPORT ON ACTIVITIES
AUGUST 2019



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INTRODUCTION

The Massachusetts Access to Justice Commission was established by the Supreme Judicial Court in 2005 to provide leadership, vision and coordination for the many organizations dedicated to improving access to justice for all persons in the Commonwealth who are unable to afford counsel for their essential civil legal needs.¹ Toward this end, the Commission has focused on five core strategies:

- Increasing justice by improving the effectiveness of, and the funding for, civil legal services organizations;
- Increasing services provided by private attorneys;
- Improving assistance to unrepresented litigants;
- Improving access to justice beyond the courts, such as in administrative agencies; and
- Exploring the role of non-lawyers in the provision of appropriate civil legal assistance.²

This report provides an update on the Commission's ongoing work and new initiatives in each of these five core strategy areas during the period August 1, 2018 through July 31, 2019. Highlights of the Commission's work during this past year include the following activities:

- Following up on some of the proposals articulated in the Justice for All Strategic Action Plan that the Commission developed in 2017 in collaboration with a wide range of partners in the access to justice community, the Commission worked with legal services providers, community organizations, and the courts to support two pilot programs testing innovative ideas for improving access to justice in the areas of housing and consumer debt, using a \$200,000 grant from the National Center for State Courts' Justice for All project.
- The Commission's Justice for All Implementation Committee and its working groups also undertook many other projects to realize the vision articulated in the Strategic Action Plan, such as providing comments to improve Housing Court forms and Small Claims Rules, researching access to justice barriers in eviction appeals and the reasons for high default

¹ The Supreme Judicial Court initially created the Massachusetts Access to Justice Commission in February 2005 with a five-year mandate (a/k/a the "First Commission"), and then reauthorized the Commission for another five years in 2010 (a/k/a the "Second Commission"). In 2015, the Court re-established the Commission as a permanent body subject to review at five-year intervals (a/k/a the "Third Commission"). More information on the history and accomplishments of the Massachusetts Access to Justice Commission can be found on its website at http://www.massaj2j.org/a2j/?page_id=591.

² A more extensive statement of the Commission's goals and strategies is presented in the Mission Statement in Appendix 3.

rates in housing cases, and helping to revamp an online directory of legal resources for low-income people in Massachusetts.

- A Commission working group researched the security concerns that initially led many Massachusetts courts to ban cell phones and the impacts of those bans on court users, especially unrepresented litigants. The working group's report, issued this past spring, recommended lifting courthouse cell phone bans while proposing alternative means of ensuring court security.
- The Commission developed a communications strategy designed to inform the public about the purpose and need for the Access to Justice Commission; educate the public about the Commission's mission and activities; learn from the public about issues that may warrant a systemic or collaborative response; and generally facilitate a multi-directional flow of information and ideas among the Commission's leadership and membership, partner entities and organizations, other justice stakeholders, and the general public.
- The Civil Appellate Pro Bono Program -- a collaborative initiative involving the Commission, the Volunteer Lawyers Project, the Clerk's Offices for the Appeals Court and the Supreme Judicial Court, and local law firms, in-house legal departments, and legal services organizations -- continued to operate a weekly clinic at the Appeals Court providing free legal consultation to qualifying self-represented litigants, and full representation for an appeal in selected cases. During the past year alone, 153 attorney volunteers served 188 individual litigants through this program.
- The Commission continued to support the growth of the Access to Justice Fellows Program, which has now provided over 90,000 hours of pro bono services by 116 retired lawyers and judges to more than 70 nonprofit entities in Massachusetts. The program has been replicated in Louisiana, and is under consideration in several other states.

The Commission's membership represents a range of constituencies, including judges, clerks, bar associations, legal aid organizations and their clients, social service agencies, government entities, the private bar, law schools, and businesses.³ Our work is accomplished through seven primary committees consisting of both Commissioners and committed non-member volunteers.⁴ We are grateful to the Commissioners and to all the committee members for their work during the past year. We also appreciate the support provided by Chip Phinney, Deputy Legal Counsel at the Supreme Judicial Court, and Alex Blutman and Jack Gilligan, project analysts at Mintz Levin.

Finally, we would like to express our special thanks to Laura Gal, Esq., who has been an invaluable resource while serving as the Commission's consultant during the past two years. Laura has been essential to all that the Commission has accomplished during this time. While we were saddened by Laura's departure at the end of June to accommodate her increased responsibilities at Northeast Legal Aid, we are also very pleased to welcome her worthy successor -- Carolyn Goodwin, Esq., who will help lead the Commission's work in a new and expanded full-time position as the

³ See Appendix 2 for a membership list.

⁴ See Appendix 3 for Committees and leadership, and our updated website at <http://www.massa2j.org/a2j/> for additional information.

Commission's Director, thanks to the generous support of the Massachusetts Legal Assistance Corporation.

Hon. Ralph D. Gants, Chief Justice
Massachusetts Supreme Judicial Court

Susan M. Finegan, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.

Co-Chairs, Massachusetts Access to Justice Commission

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I. INCREASING JUSTICE BY IMPROVING THE EFFECTIVENESS OF, AND THE FUNDING FOR, CIVIL LEGAL SERVICES ORGANIZATIONS.

Civil legal services programs in Massachusetts, like their counterparts nationally, continue to lack sufficient funding to meet the needs of the vast number of unrepresented litigants. One of the major funding streams for legal aid in the Commonwealth, Interest on Lawyers Trust Accounts (IOLTA), decreased significantly from \$31.8 million in 2007 to a low of \$4.5 million in 2014, in large part due to very low interest rates and the recession.⁵ Over the past several years, the numbers have slowly increased to \$8.3 million in 2018. Nonetheless, a return to pre-recession figures is not within sight. Meanwhile, funding for Massachusetts civil legal services programs from the federal Legal Services Corporation (LSC) has remained virtually flat for the last decade (\$5.5 million in FY2009 vs. \$5.7 million in FY2019),⁶ and the President's budgets have proposed eliminating LSC entirely.

Fortunately, the Massachusetts Legislature has stepped in to increase aid for civil legal services significantly over the last several years, raising the state appropriation for the Massachusetts Legal Assistance Corporation (MLAC) to \$24 million for FY2020 from \$18 million in FY2018.

Yet despite this increase in state aid, the appropriation was still \$2 million less than what MLAC had requested, and the unmet need for legal services remains great. According to recent estimates, 888,000 people in Massachusetts -- 13.4% of the state population -- live below 125% of the federal poverty level (\$32,188 annually for a family of four), making them eligible for civil legal aid.⁷ As a result of inadequate funding and significant need, legal aid programs in Massachusetts are forced

⁵ Boston Bar Association, Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts (Oct. 2014), at 15, <http://www.bostonbar.org/public-policy/civil-legal-aid-in-ma>.

⁶ See Legal Services Corporation: Background and Funding, Congressional Research Service (Feb. 2, 2010), at 12, https://www.everycrsreport.com/files/20100202_RL34016_0a6fc07754a4b30c71439b29b406c1423a25a195.pdf; Legal Services Corporation, Massachusetts State Profile, <https://www.lsc.gov/grants-grantee-resources/our-grantees/massachusetts-state-profile>.

⁷ Legal Services Corporation, Massachusetts State Profile, <https://www.lsc.gov/grants-grantee-resources/our-grantees/massachusetts-state-profile>.

to turn away 65 percent of eligible residents -- nearly 45,000 people each year -- who seek their help.⁸ The Commission has sought to address this need in many ways, including the following:

- **The Commission worked with a coalition of state agencies and legal and social service providers to develop the Civil Legal Aid for Victims of Crime program (CLAVC), which channeled \$8.3 million in federal funds to legal services organizations over the last two years to support more than 26 attorneys who work directly with crime victims.** Over the past few years, the Commission was one of two state access to justice commissions nationally to lead an effort analyzing opportunities to tap federal funds, other than those allocated for the Legal Services Corporation, to meet the ongoing funding gap for civil legal aid. A large increase in federal funds – from less than \$10 million to more than \$40 million – flowing to Massachusetts from the Victims of Crime Act (VOCA) was identified as a potential source and, through an extensive community outreach and collaboration campaign, data on the need for increased legal services to assist victims was collected and the case was made to allocate new resources for a statewide legal assistance program. As a result of these efforts, in 2017 the Massachusetts Office for Victim Assistance Office (MOVA) announced allocation of \$8.3 million from these funds to support civil legal services for victims of crime over the next two years and the state-wide CLAVC program was launched, adding more than 26 attorneys to legal services agencies to work directly with crime victims across the Commonwealth. The CLAVC program is managed by the Massachusetts Law Reform Institute with oversight provided by MLAC. Meanwhile, the Commission is continuing to investigate opportunities for future funding flowing from analogous federal sources.
- **The Commission successfully supported an increase in the appropriation of state funds for the Massachusetts Legal Assistance Corporation (MLAC).** Each year, the Commission has stood with other stakeholders in the access to justice community to support an increase in the state budget to fund civil legal aid through MLAC. This year, the Commission is pleased to report that the budget enacted by the Legislature and signed by Governor Baker for FY2020 includes \$24 million for MLAC – an increase of nearly \$3 million over FY2019.
- **The Commission has helped to establish other new funding sources for civil legal aid.** The Commission was instrumental in the Supreme Judicial Court's approval of three new sources of revenue to support legal services: expanded eligibility of IOLTA and legal aid programs for receipt of *cy pres* awards of class action residuals under a 2008 amendment to Mass. R. Civ. P. 23, which has generated more than \$3 million; a voluntary annual \$51 "access to justice" attorney registration fee, which has generated over \$1 million annually since it was created in 2010; and a *pro hac vice* registration fee, which has generated about \$1 million since it was established through SJC Rule 3:15 in 2012. During the past year, the *pro hac vice* registration fee was increased by the SJC from \$301 to \$355, effective January 1, 2019, for the Superior Court, Land Court, and appellate courts.

⁸ Massachusetts Legal Assistance Corporation Fact Sheet (May 2019), <https://www.massbar.org/docs/default-source/advocacy/2018-19/fy20-fact-sheet-may7.pdf?sfvrsn=2>.

II. INCREASING SERVICES PROVIDED BY PRIVATE ATTORNEYS.

Massachusetts has a rich tradition of providing pro bono legal services. The state has a vast network of pro bono referral organizations covering a variety of legal issues, from political asylum to domestic violence to bankruptcy. The Commission continues to work closely with the Supreme Judicial Court's Standing Committee on Pro Bono Legal Services to increase pro bono engagement. To facilitate the coordination of the work of the Commission and the Pro Bono Committee, the Pro Bono Committee's Chair is an ex officio member of the Commission, and one of the Commission's Co-Chairs is a member of the Pro Bono Committee. Efforts to increase the ability of private attorneys to provide for-fee services to moderate- and low-income clients also continue through the work of the Commission's Access to Attorneys Committee. During the past year, the Commission's work in this area has included the following activities.

- **Sustaining the Access to Justice Fellows Program in Massachusetts and facilitating its replication in states across the country.** Established in collaboration with the Commission in 2012, the Access to Justice Fellows Program partners retired or retiring lawyers and judges with legal services organizations and other nonprofits. The Program, now run by the Lawyers Clearinghouse, provides a unique opportunity for these lawyers and judges to use their specialized skills and experience to do engaging pro bono work. Fellows spend an academic year volunteering 10-20 hours per week on a significant pro bono project in furtherance of access to justice. This year, the number of fellows again increased, bringing the total number since the program's inception to 116. Current and former Fellows have provided over 90,000 hours of pro bono service to more than 70 different entities.

The Commission is proud to have incubated the Fellows Program, an innovative approach to increasing the number of pro bono participants and the number of pro bono hours per participant. Our ultimate goal for the program is to have every member of the bar, when contemplating retirement, consider providing pro bono service during a fellowship year. Meanwhile, interest in replicating the program elsewhere continues to grow. Louisiana recently launched a similar program, and we have had additional inquiries from other states.

- **Providing continued support for the state-wide appellate pro bono program.** In 2014, when the Commission became aware of pro bono appellate initiatives for unrepresented litigants in 14 other states, a committee of bar leaders, legal services attorneys, and appellate judges reviewed best practices and studied the feasibility of a program in Massachusetts. The committee found, among other things, that the Appeals Court Clerk's Office received phone calls each day from approximately 40-50 unrepresented litigants. As a result of this study, the Commission initiated a pilot Civil Appellate Pro Bono Program at the Brooke Court Service Center in Suffolk County. The program was so successful it expanded statewide in December 2015.

The program has three elements: a weekly civil pro bono appeals clinic at the Appeals Court Clerk's Office, a merits review panel, and full representation. Collaborators in this important initiative include the Commission, top area law firms, the Volunteer Lawyers

Project, numerous other legal services organizations, and the Clerk's Offices of the Appeals Court and the Supreme Judicial Court.

During the past year, 153 attorney volunteers have served 188 individual litigants through this program. In addition, since its establishment, the program has taken on 20 appeals for full representation in the areas of housing, guardianship, domestic violence, and family law.

- **Continuing implementation of ideas in the 2017 Access to Attorneys Committee report.** In May 2017, the Commission's Access to Attorneys Committee issued, and the Commission endorsed, a report exploring means for increasing the number of private attorneys who choose to represent low- and moderate- income clients who could not afford a traditional retainer and full representation arrangement. The report offered recommendations for continued work by the Commission, including continuing to investigate apparent obstacles to the use of fee-shifting to serve lower-income litigants in the Housing and Probate and Family Courts, working with legal services agencies to develop fee-shifting practices in housing and consumer debt cases, tracking the use of LAR in Mass Courts, and implementing monthly fee-shifting networking initiatives. During the past year the Access to Attorneys Committee has continued to pursue these ideas through several initiatives, including:
 - gathering data on fee-shifting awards in the Housing Court;
 - surveying judges and practitioners in the Probate and Family Court about fee-shifting awards;
 - providing a training session on fee-shifting awards for members of the Massachusetts Bar Association; and
 - working with legal services providers to explore ways of supporting use of fee-shifting in housing and consumer debt cases.

III. IMPROVING ASSISTANCE TO UNREPRESENTED LITIGANTS.

In many Massachusetts court cases involving families' and individuals' essential legal needs, one or more parties are not represented by a lawyer. For example, in the Housing Court, nearly 64 percent of all litigants and over 90 percent of defendants were unrepresented in Fiscal Year 2018.⁹ It is generally reported that in the Probate and Family Court, at least one party lacks counsel in the majority of cases.¹⁰ And available data suggest that in consumer debt actions, less than 1.5 percent

⁹ Housing Court Department, FY 2018 Statistics, <https://www.mass.gov/files/documents/2018/10/01/2018%20Housing%20Court%20Self-Represented-Represented%20Litigants%20by%20Court%20Location.pdf>.

¹⁰ Massachusetts Justice for All Strategic Action Plan (Dec. 22, 2017) at 28, http://www.massa2j.org/a2j/?page_id=9.

of defendants are represented by a lawyer.¹¹ The same pattern is seen nationally. Given this reality, a major focus of the Massachusetts Access to Justice Commission, like others across the country, has been to better understand and address the needs of unrepresented litigants.

Much of the Commission's current work in this area has been guided by the Justice for All Strategic Action Plan that the Commission developed in 2017 in collaboration with a wide range of stakeholders, including representatives from the courts, legal aid providers, bar associations, law schools, social service organizations, litigants, community groups, and others. Work on the Strategic Action Plan was made possible in part by a Justice for All grant from the National Center for State Courts funded by the Public Welfare Foundation. The Plan focused on the needs of unrepresented litigants in three substantive areas of law -- consumer debt, housing, and family law -- plus a fourth category covering issues impacting the justice ecosystem as a whole. It described the current resources and challenges in each of the four focus areas; proposed a vision of a legal system capable of providing meaningful access to justice in each domain; and identified strategies for achieving that vision. The Plan also included a comprehensive catalog of legal and supportive services available in Massachusetts today. During the past year, the Commission engaged in the following activities to implement the ideas outlined in the Strategic Action Plan:

- **Justice for All implementation pilot projects in housing and consumer debt.** Submission of the Massachusetts Strategic Action Plan triggered eligibility for a second round of Justice for All funding to support implementation projects. In January 2018, the Commission submitted a proposal for two one-year pilots, one in housing and the other in consumer debt, to test ideas proposed in the Strategic Action Plan. In April 2018, the Commission received notice that both proposals had been accepted, and in late June 2018, MLAC received \$200,000 to fund the two pilots, thanks to support from the Public Welfare Foundation, the Kresge Foundation, and the Open Society Foundations.
 - In the housing pilot, Northeast Legal Aid and Lawrence Community Works worked together to establish a Housing Stabilization Center in Lawrence to provide resources such as access to emergency funding, supportive services, and mediation to landlords and tenants to stabilize at-risk tenancies before an eviction case is filed. The pilot engaged in extensive outreach to the community to educate landlords and tenants about the program. The Center began taking cases in mid-November 2018 and gradually developed a steady caseload by spring 2019. The pilot will continue running through this fall, at which time more information will be available about the success of this approach to reducing the number of evictions.
 - In the consumer debt pilot, an attorney from Greater Boston Legal Services worked with local community organizations to provide upstream education and training about consumer debt issues and consumer rights, as well as representation for consumer debtors in selected cases. He created and disseminated a set of online tools to assist end users and social services entities address consumer debt before a court case is initiated or, where a case has been filed, before the next hearing date. He also supported development and staffing of a lawyer-for-the-day program for consumer debt cases in collaboration with the Volunteer Lawyers Project and the

¹¹ *Id.*

Dorchester division of the Boston Municipal Court. By the end of the pilot, the attorney had closed 60 consumer debt cases resulting in total savings of more than \$68,000 in reduced consumer debt.

- **Additional efforts to implement the Strategic Action Plan.** To pursue implementation of the Strategic Action Plan, the Commission formed a Justice for All Implementation Committee with four working groups: consumer debt, housing, family law, and ecosystem. In addition to overseeing the two pilot projects, the Committee and its working groups undertook a number of other activities in collaboration with other partners during the past year:
 - In addition to overseeing the housing pilot described above, members of the Housing Working Group have consulted with the Housing Court's forms committee, providing input on the design of model pleadings and technical support and feedback. The Housing Working Group has also designed and, in partnership with AmeriCorps, carried out a research project to investigate the reasons for high default rates in housing cases. Finally, at the request of the Appeals Court, the Working Group has formed a committee to consider access to justice barriers in eviction appeals.
 - Members of the Consumer Debt Working Group oversaw the consumer debt pilot and consulted with the Hampden County Bar Association, Community Legal Aid, and MassMutual about starting a similar consumer debt project in Springfield. Members of the Working Group also provided suggestions to the District Court concerning proposed changes in Rule 7 of the Uniform Small Claims Rules, which governs trials and judgments in small claims cases, and monitored the impact of two new rules, Mass. R. Civ. P. 8.1 and 55.1, that established more stringent requirements for filing, defaults, and default judgments in certain consumer debt collection actions, effective January 1, 2019.
 - Members of the Family Law Working Group met with the Honorable John D. Casey, Chief Justice of the Family and Probate Court, to discuss the needs of unrepresented litigants and ways of addressing those needs. Chief Justice Casey later addressed a Commission meeting, discussing access to justice issues and the related court reforms that he has been pursuing.
 - Members of the Ecosystem Working Group have been serving as advisors to Community Legal Aid (CLA) and the Massachusetts Law Reform Institute on a project to improve the functionality of the Massachusetts Legal Resource Finder, which provides low-income people in Massachusetts with a searchable comprehensive online directory of civil legal services, including over 80 civil legal aid, pro bono, non-profit, government, and court-based programs. The project is being funded by a Technology Initiative Grant from the Legal Services Corporation that CLA applied for and won with the Commission's support.

- **Working group on cell phones in the courts.** Another access to justice issue that the Strategic Action Plan identified was the impact of courthouse cell phone bans on court users. Many courthouses in the Commonwealth currently ban cell phones, due to the potential security issues that arise when cell phones are used to photograph or record witnesses, jury members, and other courtroom participants and thereby intimidate or threaten them. These bans create problems for other court users, however, especially unrepresented litigants, who may need their cell phones to present evidence, such as photographs or text messages; to access information about the litigation process or to complete court forms; to consult their calendars to schedule future court dates; to reach child care providers; or for other essential needs. In addition, courthouses with cell phone bans often lack on-site storage, forcing court users who do not drive to the courthouse to leave their phones with a third-party for a fee or hide them outside the courthouse. Following a March 2018 presentation on these issues to the Commission by the Massachusetts Appleseed Center for Law and Justice, the Commission appointed a special working group to study the problem and make recommendations to the Commission.

The Working Group's members reviewed existing rules and policies governing the use of cell phones in Massachusetts courthouses; interviewed many members of the Massachusetts Trial Court and its security staff; analyzed more than 90 policies from other jurisdictions; and visited courthouses in other jurisdictions, at their own expense, to see how other state courts regulate the use of cell phones. Based on this extensive investigation, the Working Group issued a report, which concluded that "cell phone bans create unacceptable hardships and should be phased out in favor of alternative security measures that have been shown to guard against the dangerous misuse of cell phones in the courthouse while still meeting the needs of court users and visitors to have access to their devices." Among other steps, the report recommended a review of existing courthouse cell phone bans with an eye to reducing the number of bans, and considering alternatives to outright bans in courthouses with significant security concerns, such as the use of magnetically locked cell phone pouches that allow court users to carry their phones but prevent actual usage.

- **Exploring criminal-civil crossover issues unaddressed by current system.** Following a December 2016 presentation by experts discussing the unmet civil legal needs of persons involved in the criminal justice systems, the Commission established a "criminal-civil crossover" working group to identify gaps in the current system and their causes and to make recommendations for filling those gaps. During the past year, the Commission hosted a meeting between civil legal aid leaders and the leadership of the Committee for Public Counsel Services (CPCS) to discuss common issues between the organizations and the potential for collaboration. The civil legal aid programs expressed a continuing interest in expanding their efforts in the area of post-incarceration re-entry, subject to the availability of new funding to support the work. CPCS expressed interest in working into their training sessions and materials issues of collateral civil consequences, particularly in areas of housing, government benefits and child support. The Commission is continuing to monitor efforts along these lines.

- **Continuing collaboration with the Trial Court on access to justice issues.** The Trial Court's strategic plans have identified access to justice as a key component of its mission, and the Trial Court has undertaken many initiatives to help improve access to justice, including the creation of Court Service Centers; use of technology to conduct court business; simplified court procedures; use of plain language in court forms and other documents; multi-lingual self-help materials in multiple formats; implementation of the Trial Court's Language Access Plan; expanding lawyer-for-a-day programs; increasing Limited Assistance Representation; and community outreach. The Commission has worked closely with the Trial Court to support many of these initiatives, and in turn the Trial Court has collaborated with the Commission on many of the Commission's projects. In particular, much of the work discussed in this report has benefitted from input and support from judges, clerks, and other court staff. This collaboration has been facilitated by the presence of five Trial Court judges, including the Trial Court's Special Advisor for Access to Justice Initiatives, as well as a Clerk-Magistrate, on the Commission. The following are some recent examples of the Commission's ongoing collaboration with the Trial Court on access to justice issues:
 - Trial Court judges, clerks, and other personnel provided advice and support for various aspects of the Justice for All housing and consumer debt pilots.
 - Trial Court personnel participated in some of the Commission's committees.
 - Members of the Commission's Housing Working Group met with the Summary Process Subcommittee of the Trial Court's Forms Management Team and participated in a conference with the Subcommittee, landlord and tenant attorneys, and court personnel to review and discuss summary process forms and procedural changes.
 - Members of the Commission and its working groups participated in preparing a Lawyer-for-a-Day Program Manual for such programs in the Housing Court, providing a "how to" and best practices guide.
 - Members of the Commission's Consumer Debt Working Group provided input to a Trial Court committee considering changes to the rules for small claims cases.
 - The Trial Court's Chief Justice, Court Administrator, Director of Security, and departmental chief justices and deputy court administrators, as well as other judges, clerks, and court personnel provided input for the Cell Phone Working Group's report. The Trial Court is now taking a number of steps in response to the report, including reviewing and evaluating current courthouse cell phone bans and updating Trial Court policy on possession and use of cell phones by self-represented litigants.
 - The Commission's Access to Attorneys Committee provided feedback to the Trial Court's Limited Assistance Representation (LAR) Committee regarding the Trial

Court's LAR website and other LAR informational materials for members of the public and attorneys.

- Following up on the Commission's past recommendation for creating court service centers to assist self-represented litigants, the Trial Court has established six courthouse-based court service centers over the last several years. More recently, the Trial Court has been working with the Massachusetts Appleseed Center for Law and Justice to research the development of an online virtual court service center, and a report on that research will be issued shortly.
- The Trial Court's Special Advisor for Access to Justice Initiatives and Senior Manager for Access to Justice have provided updates to the Commission on Trial Court progress in implementing the access to justice domain of the Trial Court's Strategic Plan 2.0.

IV. PROVIDING ACCESS TO JUSTICE BEYOND THE COURTS: ENHANCING ADMINISTRATIVE JUSTICE.

As discussed in the Commission's previous Annual Reports, administrative agencies provide benefits and services to low- and moderate-income families, but most individuals who seek such benefits, or need to appeal the denial of such benefits, do so without a lawyer to assist them, and often face additional barriers in accessing benefits for which they are eligible. Ensuring justice outside the court system is as important as it is inside the courtroom: it can be just as difficult for low-income individuals to navigate benefits disputes without legal assistance as it is to navigate housing and family court disputes. Through the Administrative Justice Committee, the Commission has investigated several particular areas of concern and possible strategies for addressing these concerns:

- language access barriers and ways to improve the language access plans that have been adopted by Massachusetts administrative agencies;
- the burdens of applying for various government benefits through multiple different applications and ways to simplify and integrate benefit forms into a common application so that, for example, enrollment in MassHealth would also simultaneously entail application for the Supplemental Nutritional Assistance Program; and
- the need for improved communication between administrative agencies and those who are eligible for benefits, including an awareness that the use of new technology as a communications tool, while beneficial for many, can also prove to be a barrier for persons who lack access to a computer or the skills to navigate online.

While all of these areas of interest are continuing to evolve, the Committee completed its work this past June after many years of study. The Commission thanks the Committee members for their work.

V. EXPLORING THE POTENTIAL FOR IMPROVED ACCESS TO JUSTICE THROUGH THE USE OF NON-LAWYERS.

Given the large numbers of unrepresented litigants in the Massachusetts courts, the Commission has also looked beyond the traditional lawyer-client model to consider other strategies to help close the "justice gap," such as the use of non-lawyers to assist unrepresented persons in understanding their rights, navigating the legal system, and coordinating with traditional providers of legal aid.

The 2017 Justice for All Strategic Action Plan recognized that non-lawyers can and do provide useful assistance to individuals facing legal problems and that expanded use of non-lawyers is an important tool for improving access to justice. The Commission has also studied current uses of non-lawyers in Massachusetts courthouses, including Safe Plan advocates (who assist victims of domestic violence prepare documents to apply for restraining orders and explain the process for presenting these requests to a judge) and non-lawyer volunteers assisting with Lawyer for the Day programs in Housing Court.

In line with that strategy, during the past year both of the Justice for All implementation pilot projects discussed above incorporated non-lawyers in upstream efforts to provide information and guidance to community members before they are involved in litigation. In the housing pilot, a community organization, Lawrence Community Works (LCW), partnered with Northeast Legal Aid to establish the pilot's Housing Stabilization Center. The Center was staffed by an experienced non-lawyer housing counselor from LCW, who sought to assist landlords and tenants in stabilizing tenancies through access to emergency funding, supportive services, mediation, and other non-litigation methods for resolving problems. In the consumer debt pilot, the lead attorney provided extensive education and training about consumer debt legal issues and consumer rights to the staff of local community organizations, so that they can in turn better counsel persons who come to them for advice.

The Commission also devoted part of a Commission meeting to a broad-ranging discussion of whether Massachusetts should take further steps to formalize and expand non-lawyer roles in the legal system to assist in meeting the needs of unrepresented litigants. Following up on this discussion, the Commission researched what other states have done in this area.

CONCLUSION

Over the past year, the Commission made significant contributions to new collaborative projects, such as the Justice for All implementation projects; undertook new research in fields such as cell phone policy; and was pleased to see the continued growth of initiatives begun in prior years, such as Civil Legal Aid for Victims of Crime and the Access to Justice Fellows Program. We thank our commissioners and other collaborators for their collective efforts. The Commission looks forward to another productive year ahead.

APPENDIX 1

Massachusetts Access to Justice Commission Mission Statement March 1, 2015

The goal of the Massachusetts Access to Justice Commission is to achieve equal justice for all persons in the Commonwealth. It strives to accomplish this goal by providing leadership and vision to, and coordination with, the many organizations and interested persons involved in providing and improving access to justice for those unable to afford counsel.

The Commission will pursue its mission by various means including the following:

1. Strengthening the civil legal services community in providing legal services for those unable to afford counsel.
2. Enlarging the number of attorneys trained, willing, and able to provide pro bono civil legal services.
3. Enlarging the number of attorneys in the private bar trained, willing and able to provide civil legal services through limited assistance representation or other means to low- and moderate- income individuals who are unable to afford legal representation and unable to obtain legal aid representation.
4. Enlarging the number of non-lawyers trained, willing and able to provide appropriate assistance to improving access to justice.
5. Improving the ability of those without counsel to identify, articulate and present their legal claims and defenses in civil judicial and administrative proceedings.
6. Working closely with the Chief Justices of the Supreme Judicial Court and the Trial Court, the Trial Court Administrator and the Special Advisor to the Trial Court on Access to Justice Initiatives to broaden access to justice within the court system.
7. Coordinating the efforts of the broad network of legal, social service and administrative organizations and interested persons who seek to improve access to justice by (a) sharing information regarding successful programs, approaches, and strategies in delivering civil legal services to those unable to afford counsel, (b) identifying best practices and technologies for delivering such legal services, (c) determining the changing legal needs of those unable to afford counsel, as well as enduring unaddressed and under-addressed legal needs and (d) developing goals and strategies for meeting those legal needs.
8. Reviewing the state of access to justice in Massachusetts, educating the public about access to justice and providing a neutral forum in which important issues affecting access to civil justice can be discussed among the branches of government and the civil legal services

community, including a broad cross-section of providers, funders, clients, bar leaders and other interested parties.

9. Reporting annually to the Supreme Judicial Court on the status of access to justice in the Commonwealth, including recommendations for reforms and Commission goals and activities.

The success of the Commission will be measured by the extent to which persons can more effectively present their claims and defenses in our courts and administrative agencies, regardless of income or language ability.

APPENDIX 2

Members of the Massachusetts Access to Justice Commission, 2018-2019¹²

Honorable Ralph D. Gants, Co-Chair	Richard Johnston, Esq.
Susan M. Finegan, Esq., Co-Chair	Georgia Katsoulomitis, Esq.
Shannon M. Barnes, Esq.	Honorable Antoinette E. McLean Leoney
Jacquelynne J. Bowman, Esq.	Jennifer Grace Miller, Esq.
Marijane Benner Browne, Esq.	Jonathan L. Mannina, Esq.
Esme Caramello, Esq.	Sue Marsh
Jeffrey N. Catalano, Esq.	Honorable Richard McMahon
Honorable Fairlie A. Dalton	Susan Nagl, Esq.
Anthony M. Doniger, Esq.	Kate Oberlies O'Leary, Esq.
Russell Engler, Esq.	Clerk-Magistrate Anthony Owens
Elizabeth Ennen, Esq.	Erika J. Rickard, Esq.
Honorable Dina E. Fein (<i>ex officio</i>)	Mary Ryan, Esq.
Joel H. Feldman, Esq.	David Rosenberg, Esq. (<i>ex officio</i>)
Sandra M. Gant, Esq.	James T. Van Buren, Esq.
Honorable Lisa Ann Grant	Marilyn J. Wellington, Esq.

Commissioners Emeritus

Navjeet K. Bal, Esq.	Lee H. Glickenhau, Esq.
Allan G. Rodgers, Esq.	Jay T. Thiel, Esq.

Consultant

Laura W. Gal, Esq.

Analysts / Administrative Support

Alexander J. Blutman	Jack Gilligan
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¹² This list includes all Commissioners who served at any time between August 1, 2018 and July 31, 2019. It does not include new Commissioners appointed in July 2019, but whose work on the Commission began after July 31, 2019. We would like to thank our Commissioners whose terms ended during this past year: Anthony Doniger, Esq.; Hon. Lisa Ann Grant; Sue Marsh; Erika Rickard, Esq.; and James T. Van Buren, Esq.

APPENDIX 3

Committees and Working Groups of the Massachusetts Access to Justice Commission, 2018-2019¹³

The Commission seeks to further the strategies set forth in the Commission's Mission Statement through various committees, each chaired or co-chaired by a Commissioner. The Commission may also establish certain ad hoc working groups from time to time. The Commission's work is overseen by the Executive Committee.

1. Revenue Enhancement Committee

Chaired by: Commissioner Marijane Benner Browne.

Overview: This committee identifies ways to increase the funding of civil legal aid through innovative means, including investigating new sources of state funding, federal funding, foundation funding, and private philanthropy.

2. Delivery of Legal Services Committee

Chaired by: Commissioners Russell Engler and Susan Finegan.

Overview: This committee's scope encompasses the whole civil legal services delivery system and seeks to identify opportunities for systemic improvement.

3. Access to Lawyers Committee

Chaired by: Commissioner Joel Feldman.

Overview: This committee seeks to increase access to attorneys for both low-income litigants and those whose income is above the poverty threshold but still insufficient to be able to afford a lawyer. Efforts include promoting Limited Assistance Representation, fee-shifting models, and law school incubators and similar programming.

4. Self-Represented Litigants Committee

Chaired by: Commissioner Jonathan Mannina.

Overview: This committee seeks to identify and support improvements in the justice system for those who do not have a lawyer.

¹³ Committee and working group chairs include Commissioners who served at any time between August 1, 2018 and July 31, 2019.

5. Administrative Justice Committee

Chaired by: Commissioner Georgia Katsoulomitis.

Overview: This committee reviews the administrative practices of state agencies and addresses obstacles to accessing justice within those systems. Current efforts focus on technology-related barriers, language access, and integration/information sharing among administrative agencies.

6. Justice for All Implementation Committee

Chaired by: Commissioners Susan Finegan and Russell Engler.

Overview: This committee oversees efforts to implement ideas from the Massachusetts Justice for All Strategic Action Plan, both through pilot projects funded by the National Center for State Courts, in conjunction with the Pew Foundation, the Kresge Foundation, and the Open Society Foundations, and through additional, independent efforts. The committee has four working groups:

- Housing, co-chaired by Commissioners Joel Feldman and Esme Caramello;
- Consumer Debt, co-chaired by Commissioner Erika Rickard and Attorney Benjamin Golden;
- Family, chaired by Commissioner Jacquelynne Bowman; and
- Ecosystem, co-chaired by Attorneys Gordon Shaw and Rochelle Hahn.

7. Criminal-Civil Crossover Working Group

Chaired by: Commissioners Russell Engler and Sandra Gant.

Overview: This working group has investigated gaps in legal services at the intersection of the civil and criminal justice systems and is working to identify opportunities for greater coordination, replication of localized best practices, and expansion of legal assistance for civil legal issues affecting persons involved in the criminal justice system.

8. Courthouse Cell Phone Policy Working Group

Chaired by: Commissioner Jeff Catalano and Hon. Paul Chernoff

Overview: This working group has investigated the impacts of the Trial Court policies allowing or prohibiting cell phones in courthouses and offered recommendations regarding best practices for balancing security needs and interests with the needs and interests of self-represented litigants.

Executive Committee

The Executive Committee is responsible for overseeing the Commission's work and producing its annual report. It is chaired by the Commission's co-chairs, Chief Justice Gants and Attorney Susan M. Finegan. Other members are the Honorable Dina Fein, Professor Russell Engler, Joel Feldman, Esq., consultant Laura Gal, Esq., Supreme Judicial Court Deputy Legal Counsel Chip Phinney, and Mintz Levin Project Analysts Alex Blutman and Jack Gilligan.