



MASSACHUSETTS
ACCESS TO JUSTICE COMMISSION

ANNUAL REPORT ON ACTIVITIES
NOVEMBER 2022



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INTRODUCTION

The past year¹ has been a time of transition for the Massachusetts Access to Justice Commission (“Commission”). In June 2021 the Commission welcomed three new Commission Co-Chairs: the Honorable Serge Georges, Jr., Associate Justice of the Supreme Judicial Court; Marijane Benner Browne, Director of Global Lateral Partner Recruiting at Ropes & Gray LLP; and Laura W. Gal, Managing Attorney of the Family Law Unit at Greater Boston Legal Services.² The Commission has been fortunate indeed to have the benefit of their dedicated leadership, experience, and collaborative spirit. The Commission also appreciates the many contributions of Commission Director, Carolyn Goodwin and Deputy Legal Counsel at the Supreme Judicial Court, Chip Phinney. As always, the Commission is grateful for the steadfast commitment of its Commissioners³ and other volunteer committee members to **advancing access to justice for those unable to afford an attorney to assist them with their essential civil legal needs.**⁴

The past year has also been a period of challenges and changes for the court system and for the Commission's constituents. As a community, we continued to navigate the many difficulties created by the ongoing COVID-19 pandemic and to adjust to operating in a legal system that combines both in-person and virtual proceedings. We also continued to reexamine access to justice issues through the critical lens of racial equity and justice. Many of the Commission's activities during the past year reflect these concerns, as well as the Commission's ongoing efforts to increase support for civil legal aid and self-represented litigants.

Some of the Commission's accomplishments during the past year include:

- Engaging with the courts to provide feedback on how pandemic-related changes affected self-represented litigants and other court users, and preparing a report on lessons learned from the pandemic, with recommendations on how innovative practices developed over the last two and a half years can be used to serve self-represented litigants and other court users more effectively in the future.⁵

¹ This Annual Report, dated November 2022, reflects activities from August 1, 2021-July 31, 2022.

² The new Commission Co-Chairs succeeded former Co-Chairs Susan M. Finegan, who stepped down in June 2021 after six years in that role, and Ralph D. Gants, Chief Justice of the Supreme Judicial Court, who died suddenly in September 2020. Attorney Gal, who has served as both a consultant to the Commission and a Commissioner, generously agreed to join as a third Co-Chair for one year to provide support during the leadership transition.

³ See list of Commissioners (Appendix 1).

⁴ See generally Commission Mission Statement (Appendix 2).

⁵ The focus on the impact of court processes on self-represented litigants is essential to the Commission's mission and extends beyond pandemic related concerns. For example, in July 2021, the Commission's Online Dispute Resolution Committee published an extensive [Report](#) with recommendations for designing court based ODR programs to ensure accessibility and fairness for self-represented litigants.

- Meeting with the new Chief Justice of the Trial Court, the Honorable Jeffrey Locke, who succeeded Chief Justice Paula Carey in January 2022, and the new Chief Information Officer for the Judiciary, Steven Duncan, appointed in April 2021, to discuss ways in which the Commission and the Trial Court can continue to partner and engage on access to justice issues.
- Forming a Racial Equity and Justice Committee to review issues of diversity, equity, and inclusion both within the Commission and as they affect civil litigants who cannot afford counsel.
- Partnering with others in the creation of a Massachusetts Legal Aid Funders Network, a group of private philanthropic organizations operating independently of the Commission, as a result of initial exploratory meetings led by members of the Commission's Revenue Enhancement Committee. Working with Philanthropy Massachusetts, the group's purposes include educating participants about the ways civil legal aid fosters access to justice.
- Authoring a report that summarizes and comments on results from two surveys on fee-shifting practices in Probate and Family Court, through the efforts of members of the Access to Attorneys Committee.

COMMISSION PRIORITIES AND MEETINGS

In summer 2021, the Commission's Co-Chairs convened a leadership retreat to discuss the previous year's work and to develop **broad priorities** to guide the Commission's future activities. These priorities are racial justice, with a focus both internal to the Commission and external to the Commission's activities; data collection in the civil justice system; and uniformity and simplification of court processes to make them easier to navigate for all court users, especially including self-represented litigants. Although these priorities reflect the particular concerns of the access to justice community in the Commonwealth, it is interesting to note these issues have also been raised at the national level.⁶

During the five **Commission meetings** held this year, the Commission shone a light on each of its critical priorities. During each meeting, through presentations and discussions, the Commission sought to deepen participants' understanding of these issues. For example, the Commission addressed data collection and analysis through a presentation on a housing court data project concerning fee-shifting in eviction cases, which illustrated both the value of data collection and some of the challenges faced by the Trial Court in collecting and compiling data. In addition,

⁶ See Conference of Chief Justices Conference of State Court Administrators (CCJ/CSCA) [Resolution 1, In Support of Racial Equality and Justice for All](#) (July 2020); [Civil Justice for All, American Academy of Arts & Sciences, Executive Summary: Access to Civil Justice Should be an Urgent Priority](#) (2020) (recommendations 6 and 7).

these meetings provided a forum for a range of perspectives on how the pandemic impacted the self-represented litigants' experience in navigating the courts, an experience that often highlighted the importance of unification and simplification of court processes. This included a meeting during which an Officer from the Pew Charitable Trusts shared findings from a national report considering technology in the courts, while judges from the Probate and Family Court and the Boston Municipal Court provided on-the-ground perspectives. The Commission was also so pleased to welcome both Chief Justice Locke and Chief Information Officer Duncan to Commission meetings, where they interacted with Commissioners and the public on these important issues.

COURT COMMUNICATIONS

Over the past year, the Commission was fortunate to have many opportunities to **communicate with the Trial Court and its departments and provide feedback** as the courts developed new procedures and policies in response to the pandemic and other challenges. The Commission synthesized much of this feedback in a report titled "[*Creating a More Equitable System: Lessons Learned During the COVID-19 Pandemic*](#)" which it shared with the Trial Court in October 2022. The Report compiles feedback gathered in late 2021 and early 2022 from Commissioners, Commission committee volunteers and court staff. It also represents feedback generated in discussions during Commission public meetings and during listening sessions with representatives of community organizations. In addition, each of the Commission's Family Law Committee; Housing Law Committee; Consumer Debt Committee and Racial Equity and Justice Committee contributed compiled feedback from its members while the Commission's Ecosystem Committee shared input received during a listening session it held for non-attorney advocates who had worked with self-represented litigants.⁷

In addition, the **Access to Attorneys Committee** wrote a report on fee shifting in family law litigation which it shared with the Chief Justice of the Probate and Family Court. This Report summarizes and comments on results from two surveys on fee-shifting practices, one issued to judges in the Massachusetts Probate and Family Court and the other to family law practitioners in Massachusetts. This committee is completing its final report.

The **Commission's Family Law, Consumer Debt and Housing Committees** continued to provide overall input and feedback to the courts and the Commission on the impact of the pandemic on

⁷ The Commission's Family Law, Consumer Debt, Housing and Ecosystem Committees were formed as a result of the Commission's [2017 Strategic Action Plan](#) ("SAP"). The SAP focused on the needs of self-represented litigants in three areas of law -- housing, consumer debt 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.

proceedings and to strategize on systemic reform. To ensure coordination, the Co-Chairs of these Committees, previously formed as the Commission's COVID-19 leadership team, met often to share information, and collaborate on issues impacting self-represented litigants. Thanks to the **Family Law Committee's** ongoing conversations with the Administrative Office of the Probate and Family Court ("AOPFC"), the Probate and Family Court implemented e-filing for nonmarital cases. Previously, e-filing was available in custody cases between married parents and not in cases between unmarried parents. After hearing committee concerns, the AOPFC fast-tracked expansion of e-filing to include custody cases between unmarried parents.

The Commission also had the opportunity to contribute to the **Trial Court's Committee to Eliminate Racism and Other Systemic Barriers in the Massachusetts Trial Court** through having representatives serve on both the data and the case management processes sub-committees. This afforded a terrific opportunity to collaborate with Trial Court leaders and staff.

Further, the Commission shared its perspective with the Supreme Judicial Court and the Trial Court on the importance of soliciting feedback from self-represented litigants and other non-attorney court users on changes made during the pandemic to facilitate court proceedings. For example, in response to a request from the Supreme Judicial Court, the Commission provided feedback on whether **four standing orders** issued during the pandemic should be maintained, and if so, in what form. The Commission's response included input from a broad range of Commissioners and sought to provide the perspective of self-represented litigants.

COMMUNITY ENGAGEMENT

The Commission seeks to improve access to justice by convening stakeholders throughout the Commonwealth, building relationships, fostering collaborations, and sharing information. For example, the **Ecosystem Committee** focuses on improvements applicable to a wide range of unmet legal needs by fostering coordination among various individuals, organizations, materials, technologies, practices, and infrastructure that make up the Commonwealth's legal ecosystem. This year the Ecosystem Committee held virtual programs geared toward community providers and legal services advocates on topics including coerced debt (154 registrants) and effective outreach and community education (131 registrants). It also held a listening session about court users' experiences during the pandemic (69 registrants). Further, the Ecosystem Committee maintains a Legal-Info email list for community providers, with over 750 members, designed to share information with the social service community about trainings and other legal topics. Finally, in its role as convener, the Ecosystem Committee participated in discussions on supporting Community Legal Aid's efforts to apply for a Legal Services Corporation Technology Initiative Grant (TIG) which would support development of a Do-It-Yourself Module for both petitioners and parents in petitions involving guardianship of minors.

In addition, this year the **Housing Committee** enhanced communications and collaboration among a variety of statewide housing-related initiatives, including a statewide housing coalition.

This coalition was meeting twice a month, gathering between 70-100 housing advocates each meeting. The Housing Committee also worked to support the finalization of the Default Project, which was a collaboration between AmeriCorps, South Coast Counties Legal Services, and Massachusetts Law Reform Institute, and studied the causes of high default rates in summary process cases.

Similarly, members of the **Consumer Debt Committee** gathered to collaborate on strategies to address, among other issues, unlawful car seizures and Lawyer for the Day programs in the COVID-era. The committee has also convened conversations on proposed Small Claims rule amendments, the importance of providing better notice to Small Claims defendants (e.g., through the Attorney General’s Office), and on national trends in consumer debt issues.

RACIAL EQUITY AND JUSTICE

While issues of racial justice and equity continue to be part of all the Commission’s work, this year the Commission launched a new committee to ensure focus on these issues – the **Racial Equity and Justice Committee**. This Committee was formed in January 2022 from a Commission working group that had met the prior year. The Committee has had both an internal and external focus. Internally, the Committee revised the Commission's demographic survey, which is sent yearly to all Commissioners. In addition, led by Tonysha Taylor, Director of Diversity Equity and Inclusion at the Massachusetts Legal Assistance Corporation and John Laing, Chief Experience & Diversity Officer with the Trial Court, the Committee held a diversity, equity, and inclusion training for its members this spring and hopes to continue trainings next year. Externally, the Committee has focused on improving the collection and use of race and ethnicity data in the civil justice system and is considering a program on this topic for 2022-2023.

FUNDING FOR CIVIL LEGAL AID

The Commission continued to focus on increasing funding for legal aid organizations,⁸ primarily through its **Revenue Enhancement Committee** (“REC”). As part of its ongoing work to bolster **private sector sources of funding**, the REC partnered with others to create the Massachusetts Legal Aid Funders Network (“MLAFN”), a statewide funders network that now exists independent of the Commission. Inspired by the Legal Services Funders Network in San Francisco, committee members ascertained the Massachusetts philanthropic community’s level of interest in a funders network; held exploratory meetings; and formed a steering committee. Two funders provided support for Philanthropy Massachusetts, a membership association of philanthropic organizations, to provide one year of administrative and organizational support for MLAFN. Philanthropy Massachusetts convened the first formal meeting of MLAFN in April

⁸ The need for civil legal aid has always been great but has intensified during the pandemic. “Even before the crisis, insufficient funding forced legal aid organizations to turn away the majority of eligible people who sought help. Recent funding increases have enabled civil legal aid organizations to reduce the percent of eligible people turned away to 57%, down from 64% five years ago.” [Massachusetts Legal Assistance Corporation \(MLAC\) FY23 Fact Sheet Senate Update](#)

and a second meeting in July and hopes to grow throughout the year. To further support these efforts, the REC is developing an online directory of Massachusetts organizations that provide free civil legal aid. This directory will contain key information about each organization and be available as a link on the Commission's website and at a separate website. A committee member has also led a team of volunteer lawyers and law students in a project to summarize publicly available articles and data analyzing the impact of civil legal aid on outcomes.

The REC continues to monitor developments and look for opportunities concerning **non-traditional public funding sources for civil legal aid**. For example, the Commission's prior efforts in working with a coalition of state agencies and legal and social service providers to develop the Civil Legal Aid for Victims of Crime ("CLAVC") program continues to bear fruit. CLAVC has channeled nearly \$18 million in federal funds to legal services organizations since 2018 to support attorneys who work directly with crime victims. This funding is the result, in part, of the Commission convening stakeholders and collaborating with them to pursue this funding.⁹ The CLAVC program is administered by the Massachusetts Legal Assistance Corporation ("MLAC") with program management services provided by the Massachusetts Law Reform Institute.

Each year, the Commission supports an increase in the **state budget** to fund civil legal aid through MLAC. This year, the Commission promoted attendance at the annual "Walk to the Hill" event, held once again virtually as a reframed "Talk to the Hill," where hundreds of attorneys, law students, and advocates urged lawmakers to fund legal aid. In response to these appeals, and others, the Legislature appropriated, and the Governor approved an appropriation of \$41 million in FY2023, \$6 million higher than in FY2022.

Finally, as highlighted in previous annual reports, the Commission has **historically helped 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 approximately \$6.5 million; a voluntary annual \$51 "access to justice" attorney registration fee, which has generated approximately \$13.5 million since it was created in 2010; and a *pro hac vice* registration fee, which has generated approximately \$2.2 million since it was established through SJC Rule 3:15 in 2012. Effective January 1, 2019, the *pro hac vice* registration fee was increased by the SJC from \$301 to \$355 for the Superior Court, Land Court, and appellate courts.

⁹ As discussed in the Commission's [2019 Annual Report](#), 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 these funds to support civil legal services for victims of crime and the state-wide CLAVC program was launched.

PRO BONO INITIATIVES

Massachusetts has a strong tradition of providing pro bono legal services and has a large network of pro bono referral organizations covering a variety of legal issues, from political asylum to domestic violence to housing. The Commission continues to work closely with the **Supreme Judicial Court's Standing Committee on Pro Bono Legal Services** ("Pro Bono Committee") to increase pro bono engagement in the Commonwealth. To facilitate coordination of the work of the Commission and the Pro Bono Committee, the Pro Bono Committee's Chair continues to serve as an *ex officio* member of the Commission, and the Commission's Director serves as an *ex officio* member of the Pro Bono Committee.

Additionally, the **Access to Justice Fellows Program**, established in collaboration with the Commission in 2012 and now run by the Lawyers Clearinghouse, continues to flourish. The Fellows program partners retired or retiring lawyers and judges with legal services organizations and other nonprofits to engage in 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. Since inception the program has supported 170 Fellows. Current and former Fellows have provided over 125,000 hours of pro bono service to 95 entities. The Commission is proud to have incubated the Fellows Program, an innovative approach to increasing pro bono in the Commonwealth.

Similarly, the Commission is proud to have incubated the **statewide civil appellate pro bono program**. This program, initiated by the Commission in 2014, is now overseen by the Volunteer Lawyer's Project (VLP). 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 and involves collaboration between area law firms, the VLP, numerous other legal services organizations, and the Clerk's Offices of the Appeals Court and the Supreme Judicial Court. Since its inception the clinic has assisted 678 people, including 396 pro bono cases and 244 unique volunteers. This year the Appeals Clinic handled 64 cases, including 27 pro bono cases.

CONCLUSION

This year has provided both challenges and opportunities, as we continue to navigate the pandemic as well as learn from pandemic-related innovations and plan for the future. As always, we are so appreciative of our Commissioners and other collaborators for collectively working together to ensure the civil justice system is accessible to all.

APPENDIX 1

Members of the Massachusetts Access to Justice Commission, 2021-2022

Honorable Serge Georges, Jr., Co-Chair	Ben Golden, Esq.
Marijane Benner Browne, Esq., Co-Chair	Lisa Goodheart, Esq.
Laura Gal, Esq, Co-Chair	Rochelle Hahn, Esq.
Adrian Angus, Esq.	Honorable Richard McMahon
Honorable Julie Bernard	Leticia Medina-Richman, Esq.
Rachel Biscardi, Esq.	Leemarie Mosca
Krietta Bowens Jones, Esq.	Susan Nagl, Esq.
Esme Caramello, Esq.	Clerk-Magistrate Anthony Owens
Elizabeth Cerda, Esq. (<i>ex officio</i>)	Lynne M. Parker, Esq.
Ariel Clemmer, Esq. (<i>ex officio Nov. 21-Present</i>)	Sheriece Perry, Esq.
Russell Engler, Esq.	Mary K. Ryan, Esq.
Elizabeth Ennen, Esq. (<i>ex officio July 21-Nov. 21</i>)	James D. Smeallie, Esq.
Honorable Dina E. Fein (Ret.)	Mychii Snape, Esq.
Joel H. Feldman, Esq.	Elizabeth Soule, Esq.
Honorable Robert Fields	Gladys Vega
	Honorable Valerie Yarashus

Director

Carolyn Goodwin, Esq.

Deputy Legal Counsel, Supreme Judicial Court

Chip Phinney, Esq.

APPENDIX 2

Massachusetts Access to Justice Commission Mission Statement August 12, 2020¹⁰

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. Advocating for and prioritizing racial equality and justice in our civil legal system to ensure that equality under the law is an enduring reality for all. This includes combatting both explicit and implicit bias and systemic racism and identifying and eliminating barriers that might prevent people of color from obtaining appropriate relief within the civil justice and administrative justice systems.
7. Ensuring equal access to the civil justice and administrative justice systems for those without lawyers in remote/virtual court proceedings including people with barriers to participation, such as limited access to legal advice, guidance, and information, limited access to computers and the internet, limited English language proficiency, and physical and cognitive disabilities.
8. 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

¹⁰ Mission Statement approved in March 2021.

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.

9. 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.
10. Working closely with the Chief Justices of the Supreme Judicial Court and the Trial Court, the Trial Court Administrator and the Senior Manager for Access to Justice Initiatives within the Trial Court to broaden access to justice within the court system.
11. 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.