

MINUTES

Montana Supreme Court Access to Justice Commission (ATJC)
December 12, 2012 12:30-3:45
Meeting Minutes

In Attendance: Andrew King-Ries, Judge Krueger, Chuck Hunter, Mathew Dale, Andy Huff, Alison Paul, Rick Ripley, Aimee Grmojlez, Judge Snowberger, Jennifer Brandon, Melanie Reynolds, Justice Baker, Robin Meguire, Judge Ortley, and Jon Bennion. ***In attendance by phone:*** Sharon Skaggs and Randy Snyder.

Call to Order: 12:49pm.

Andrew began the meeting by making introductions. Each person in attendance introduced him or herself. Andrew noted that there are many different backgrounds and perspectives represented on the Commission, and stated he is excited to think about what the ATJC might accomplish.

Education of Commission Members

Andrew provided an introduction to Access to Justice in Montana by introducing key players and summarizing the work done by the former Equal Justice Task Force. Andrew presented this information by way of a PowerPoint presentation, and noted the importance of understanding where the ATJC came from in determining its future direction. Andrew briefly described the tasks the Montana Supreme Court has set for the ATJC.

Judge Snowberger described the history and purpose of the Commission on Self-Represented Litigants, noting that the Commission on Self-Represented Litigants concentrated on form creation and training for clerks of court and court staff on the difference between legal advice and information. The Commission also focused on identifying ways to find authentic information to use in the creation of forms. This effort largely depended on a strong collaboration between the State Law Library and public librarians across the state.

Andrew noted that several big steps toward advancing access to justice can come from thinking about how to increase the number of attorneys employed in positions that provide legal aid, how to help people help themselves, and how to get lawyers to do pro bono work. He described a 2002-2005 study done in Montana to identify legal needs in the state. The study showed significant unmet legal needs across the state, representing important challenges for many interests, including those of the courts, legal system, and public health and safety.

Justice Baker noted that there are many self-represented litigants operating in the court system, and that courts are trying to find ways to handle them.

Andrew described Montana's pro bono coordinator position, funded initially through the Montana Justice Foundation and later through the CHP. He also described the work done by the former Equal Justice Task Force working groups, and highlighted the work of the Native American Legal Needs working group, which was formed because the 2002-2005 legal needs study didn't identify these needs very well.

Andrew and Justice Baker discussed the advent and history of Limited Scope Representation in Montana. Justice Baker described the reasoning behind forming the ATJC, focusing on the need to coordinate the many groups working on access to justice in Montana.

Current Efforts

Erin Farris from the Court Help Program (CHP) presented an overview of the CHP description of the CHP's self help centers and other statewide programs, and a summary of several performance measures used to identify the impact of the CHP. Erin noted that there are close to 300 forms available, with just over 50 in general use. This is a significantly higher number of forms in use than is common among other states.

Sharon Skaggs asked that she be provided a copy of the materials handed out at the meeting.

Erin described the CHP's process for identifying what people need when they access the program, and for identifying what level of service is appropriate in any given case. Erin is the only attorney working in the program.

Justice Baker noted that the CHP is not designed to provide attorneys to individuals, but to provide people with the tools and information to handle their own cases in court and to coordinate with local programs to expand the use of volunteer attorneys.

Erin went on to describe who the program has served (over 7,400 services provided from January through December of 2012, including those coming in with multiple issues). The CHP does not screen for income, but does track it. Erin noted that 50% of the CHP's customers are at or below the federal poverty line, 70% are within 125% of the federal poverty line (meaning they would qualify for help from Montana Legal Services Association), and an additional 16% are within 200% of the federal poverty line (and would qualify for participation in the State Bar's Modest Means program).

Erin described the impact of the CHP as identified by a performance measure survey. The program has achieved significant improvement in several areas, particularly by enhancing participants' understanding of the legal process. Erin described the current focus of the CHP and the program's future focus on obtaining permanent funding and revising Self-Represented Litigant forms.

Patty Fain provided an overview of pro bono in Montana, including a description of Rule 6.1 of Montana's Rules of Professional Conduct, the value of service provided by attorneys, and a description of local programs. Patty presented statistics gathered from 2011 pro bono reporting, and noted that Montana's rate of data collection related to pro bono service is much higher than in other states. Patty noted that the value of pro bono service rendered in 2011 was estimated at over \$19 million. Pro bono service is not mandatory in Montana.

Patty described the role of Montana's Pro Bono Coordinator as part of the CHP. The program does not provide attorneys to individuals, but coordinates pro bono efforts across the state.

Beth McLaughlin discussed the current legislative budget proposal of the Montana Judicial Branch as it relates to the Court Help Program. Beth described the impact that Self-Represented Litigants can have on

the court system, and framed access to justice as an issue of efficiency. Beth described the impact the CHP has on making the legal system operate more smoothly and more efficiently.

Break: 2:10-2:32

Montana State Bar

Janice Doggett from the State Bar described her work with Patty Fain and the State Bar's efforts on behalf of the access to justice community. Janice described the State Bar's Modest Means program and how it has targeted efforts to provide attorney training in underserved areas of law.

Chris Manos from the State Bar described the types of data the State Bar collects, and the Bar's efforts to track and support Montana's attorneys and members of the legal community.

Commission Tasks

Justice Baker described the Montana Supreme Court's charge to the commission. She outlined five substantive tasks and several administrative tasks detailed in the Court's order creating the ATJC. The four tasks Justice Baker described in detail include

- Updating the study of legal needs in Montana, and evaluating why legal needs aren't being met.
- Making recommendations to improve court processes, rules and statutes to assure accessibility to all. An example would be the recent rule revisions concerning limited scope representation. This task also includes improving forms and recommending education efforts.
- Long-range integration planning for groups working on access to justice. This includes helping more Montanans realize that access to justice affects everyone.
- Working for adequate funding for access to justice. What can Montana do to make equal access to justice a reality?

Justice Baker discussed the value of AmeriCorps VISTAs, and the administrative aspects of the Court's charge to the commission. Meetings are public, and will need to be as open as possible. Travel for Commission members and others participating in the Commission's work will be a barrier that must be addressed.

Commission Committees and Working Groups

Justice Baker moved on to the formal business of establishing committees. She described four committees that are immediate priorities:

- A standing committee on Self-Represented Litigants,
- A working group to learn about and make recommendations relating to a potential pro bono requirement to bar admission,
- A working group to work on evaluating gaps and barriers to access in Montana, and
- A group to guide the ATJC's strategic planning process.

Andrew described the urgency behind creating the groups to work on gaps/barriers and strategic planning.

Justice Baker described the funding available to the ATJC, the State Bar's role, and introduced Amy Sings In The Timber.

Amy Sings In The Timber briefly described the Montana Justice Foundation's work. She went on to note that the Montana Justice Foundation has secured \$15,000 in grant funding from the Public Welfare Foundation through the ABA to support the ATJC. A small portion of those funds will go toward staff support for the ATJC; the balance will be used to support a strategic planning process. The grant funding runs through November of 2013.

Andrew gave a brief review of the information covered in the meeting to this point, and shifted the focus to creating a working structure for the ATJC.

Judge Snowberger asked how much money is available from the State Bar for the gaps and barriers investigation.

Andrew and Chris Manos stated that \$4,000 is available, and must be used by March 2013.

Standing Committee on Self-Represented Litigants

Justice Baker clarified that the standing committee on Self-Represented Litigants will be a permanent committee of the ATJC, while other focus groups can be temporary working groups.

Justice Baker suggested Judge Snowberger to serve as the chair of the standing committee on Self Represented Litigants.

Judge Snowberger agreed to serve, and stated that several members of the former Equal Justice Task Force working group for this issue may be willing to continue serving on the ATJC committee.

Justice Baker suggested Alison Paul, as the involvement of MLSA will be critical.

Alison Paul indicated she hoped to serve in a different capacity, but would designate a member of her staff for the committee. Robin Meguire also volunteered to serve.

Judge Ortley volunteered to serve.

Justice Baker moved that Judge Snowberger chair the standing committee on Self-Represented Litigants, and Robin Meguire and Judge Ortley also serve on the committee.

Andrew seconded the motion.

Judge Ortley asked if the name of the committee could change.

Justice Baker indicated that she saw no reason it couldn't.

Andrew called the motion to question. All present voted in favor; the motion passed.

Andrew asked whether admission to the committee is the chair's prerogative; Justice Baker responded that she thought it could be and all agreed.

Andrew raised three more issues in need of working groups: gaps and barriers, the pro bono service requirement for new bar admittees, and strategic planning for the ATJC. He asked for two or three present to work on each issue.

Justice Baker noted that these issues need to be addressed soon, and suggested that legislators or those who will be involved in the upcoming legislative session be removed from consideration.

Gaps and Barriers Working Group

Andrew described the work to be done by the gaps and barriers working group.

Janice Doggett noted that this group will likely hire someone to analyze and compare data that already exists, and possibly to gather data from communities where data is missing.

Andrew asked whether there was interest in that area.

Alison Paul committed staff time to this effort.

Andrew King-Reis, Jennifer Brandon, and Andy Huff agreed to serve on the gaps and barriers working group.

Pro Bono Requirement to Bar Admission Working Group

Justice Baker asked Randy Snyder if he would be willing to be on the pro bono service requirement for bar admission working group.

Randy agreed. Judge Krueger, and Justice Baker also agreed to serve on the pro bono service requirement group. Alison Paul agreed to serve if Justice Baker would prefer not to serve. Justice Baker committed court staff to work on the issue as well, especially with regard to providing research support.

Strategic Planning Working Group

Alison Paul, Matthew Dale, and Melanie Reynolds agreed to serve on the strategic planning working group.

Meeting Administration

Justice Baker asked for feedback from those present about the meeting and planning administration. She noted that future agendas should include room for public comment.

Judge Ortley asked whether it would be possible to canvass other states for information on the issues we are addressing. He noted that a lot of states have developed materials and that the ATJC can benefit from tapping in to the good things other states have done.

Justice Baker noted that this is being done.

Andrew voiced support for this idea, and suggested that the strategic planning process include consideration of information from other states.

Melanie Reynolds asked that an acronym/terms sheet be developed and distributed to ATJC members for reference. Sharon Skaggs agreed that a reference sheet would be helpful.

Judge Ortley asked if meetings would always be held in Helena.

Justice Baker responded that we are exploring options, and noted that the location may change.

Matthew Dale suggested the Department of Criminal Investigation (DCI) building, which has a lot of space and parking. The building is located at 2225 11th Avenue, Helena.

Judge Ortley suggested Vision Net for remote attendance.

Several other meeting venues and remote attendance options were discussed, including the Court Administration building, Skype, and Go To Meeting.

Andrew noted that the next meeting will likely be after the legislative session.

Judge Snowberger expressed concern about a long stretch of time before the next meeting, noting that a meeting before the March deadline for spending gaps and barriers money may be necessary.

Justice Baker noted that this could possibly be done by conference call.

Judge Snowberger noted that the need for such a meeting to be public is troubling if the ATJC intends to meet by conference call.

Justice Baker noted that the ATJC can set a meeting location, possibly in Helena, and allow those who would have to travel to attend to call in.

Matthew Dale asked if the ATJC is governed by quorum, or some other critical mass.

Justice Baker suggested this is something the strategic planning committee could discuss.

Chuck Hunter moved to adjourn the meeting.

Judge Ortley seconded.

Andrew called the motion to question. All present voted in favor; the motion passed.

Meeting Adjourned: 3:40pm.