



Arkansas Bar Association

2224 Cottdale Lane

Little Rock, 72202

June 29, 2007

Board Room

8:30 A.M.

**STRATEGIC PLANNING MEETING
MINUTES**

Attending: Dean Charles Goldner [Chair], Rep. Will Bond, Mr. Bill Brown, Judge Waymond Brown, Ms. Jean Carter, Mr. Nate Coulter, Ms. Angela Duran, Ms. Zina Frazier, Justice Annabelle Clinton-Imber, Mr. Leon Johnson, Ms. Susie Pointer, Mr. Lee Richardson, Mr. Frank Sewall, Ms. Danyelle Walker. Mr. Ron Lanoue [Secretary], Ms. Gina Cothorn and Mr. Vince Morris [Staff] Justice Deborah Hankinson [Consultant]

Welcome

The meeting was called to order at 8:45 AM. Dean Goldner thanked Justice Deborah Hankinson for her coming to Arkansas to be the meeting's facilitator and recognized her previous assistance with the structuring of the Arkansas Access to Justice Commission before the Commission was formalized.

The Commissioners introduced themselves and stated what expectations they had for the day. The Commissioners overwhelmingly hoped that the planning session would result in "concrete and practical steps for the Commission and its future." Justice Imber stated that "if you cannot get in the courthouse what good is it?" On behalf of the Court she stated that the Court will be supportive of this Commission's continued efforts.

Access to Justice Overview

Justice Deborah Hankinson provided an overview of the national access to justice movement. She emphasized that there has been a substantial growth nationally of ATJ commissions, currently 27 state Access to Justice Commissions as compared to only 6 in 2003. These commissions are being formed because there is a growing recognition of the need to increase access to the courts in civil cases.

Justice Hankinson stated that now that the Arkansas Commission has passed the initial phase of becoming established it is time for deeper education of the state about its mission. The Commission needs to build on the involvement of the people we have already touched and continue to build its network of supporters

Justice Hankinson spoke to the recent failure in the Arkansas legislature to obtain additional funding for legal aid. She related how difficult it had been in several past legislative sessions for the Texas ATJ to obtain legal aid funding. She mentioned a creative strategy they used that was finally successful. The Texas ATJ Commission recently succeeded in legislation placing an additional tax for patrons of adult entertainment clubs the proceeds from which are placed in a domestic violence/legal aid fund. Nearly 25 million dollars have been raised through this tax which is affectionately referred to as the “pole” tax.

She also offered other examples of Texas ATJ efforts in the legislature that have been successful including lobbying to change substantive law; one such change provided for the ability to appeal the denial of public benefits.

After Justice Hankinson’s overview, at Chair Goldner’s request, Mr. Lanoue provided an overview of the agenda which would begin with the goals of the Commission, review its accomplishments (both completed and pending), and examine organizational structures, goals and activities in other states, followed by a discussion of potential priority objectives for the next three years.

Commission Goals

Members reviewed current goals and work that has been done towards each goal. The consensus was that the goals were carefully considered at the Commission’s inception and there was no reason to change or add any goals. Justice Hankinson suggested that the current goals remain the framework for the strategic plan. The next step in the process is to develop a strategic plan to more fully address the achievement of each goal.

Commission Accomplishments

To address that step the Commission reviewed the accomplishments that have been made to date on each of the goals. Mr. Morris presented a PowerPoint listing the accomplishments of the past three years. Justice Hankinson urged the Commission to note the impact of each accomplishment and to utilize this list of accomplishments for media and legislative attention. She stated that it is important for the Commission to educate the public and policy makers about the achievements that have been realized. Doing this will continue to establish the Commission’s importance as a presence and will underscore how it is meeting its mission.

The Commission went through the list of accomplishments and discussed them. Mr. Brown stated that the Town Hall Meetings clearly had a positive impact on the recent congressional budget vote for increasing LSC funds. For the first time, all of the Arkansas House Members of Congress voted for an increase. Mr. Coulter stated that continued Town Hall meetings should be held on a regular basis in order to educate the public and legislators about these non-partisan issues. Justice Imber suggested stressing the huge economic impact that occurs when people can’t access the civil legal justice system.

The change in the rule requiring attorneys to deposit IOLTA accounts in banks offering “comparable” interest rates was discussed by Ms. Pointer. Banks that want attorney trust accounts must offer a rate of interest/products for those accounts comparable to those for any other accounts with similar balances. She also stated that the largest accounts currently are only receiving 0.002% so a comparable rate increase would be dramatic.

Justice Hankinson spoke to the huge impact that comparability rule changes for IOLTA accounts can have in generating funds. In Texas the rule change has increased IOLTA funds from below \$10 million to over \$25 million. Justice Hankinson asked how much money is expected to be generated in Arkansas due to the comparability rule change. Ms. Pointer responded that the amount is unknown at this time but such a change will surely generate significant additional funds

Justice Hankinson stated that Arkansas needs to prepare for the additional funding. Texas created an endowment fund. Regardless, Arkansas should consider how to leverage the additional money to get more money.

Mr. Coulter asked if Texas had brought in an independent consultant to educate banks and whether Arkansas should do the same. Justice Hankinson stated that Texas did use a consultant and that it is critical that Arkansas hire a consultant. She stated that the price of the consultant will more than pay for itself. In Texas, the cost was \$100,000, but the consultant was able to increase IOLTA revenue by \$15 million so it was well worth the cost. The way to implement comparability is with an organized rollout and follow up. She urged the Commission to recommend to the IOLTA Board of Directors use of a consultant or otherwise Arkansas may have a rule in place that has no teeth and then little money will be forthcoming. She stated that you should use a consultant to help the board move to the next level and that comparability is proving to be too important and too much of a return to not invest in it.

Ms. Pointer informed the Commission that the issue of hiring a consultant was on the agenda at the last IOLTA board meeting but that it was defeated. Mr. Coulter expressed agreement with Justice Hankinson’s earlier remark and stated that the Commission should recommend to IOLTA reconsideration of this issue. A consensus was reached that the Commission go on record as supporting aggressive maximization of the financial opportunity comparability represents.

A motion was made and seconded that:

The Arkansas Access to Justice Commission formally recommends to the IOLTA Board of Directors that it hire a consultant to work with Arkansas banks to enforce the IOLTA account comparability rule.

The motion passed unanimously.

Ms. Pointer will report to the IOLTA Board on the Commission’s action.

Dean Goldner remarked that the pro se materials on the Commission's website were being used a great deal at the UALR-Bowen Law School's law library. Many library patrons are public users who come in looking for legal advice. These patrons are directed to the website so that they can access legal information and forms.

Justice Hankinson stated that all of these accomplishments must be fed back into the whole educational process to show the public the return on the dollar; to "brag on yourself" so that people know the Commission is making a difference. She suggested that an easy legislative education action is to participate in the American Bar Association ABA Day in Washington, DC. It occurs in the spring and a delegation could be sent next time to educate our congressional delegation and thank them for their vote. Another education piece directed at lawyers is a quarterly ATJ newsletter like the one sent to every lawyer in Texas which summarizes programs and achievements and continues to reinforce the Commission's presence and impact.

Overview of Other ATJ Organizational Structures

Justice Hankinson provided an overview of the Texas ATJ Commission's organizational structure. The PowerPoint also included the ATJ organizational structures in Colorado and California. Justice Hankinson explained that Texas expanded the number of committees as a result of their initial strategic planning process. Additionally, Texas has created a law school advisory committee; a legal training committee; a legislative committee; a technology committee, an outreach committee, and a corporate counsel committee

Some of the duties of the committees have been:

- the Law School Committee coordinates internships at the legal services programs;
- the Legal Training Committee worked with the American College of Trial Lawyers to train legal aid lawyers;
- the Technology Committee obtained a \$750,000 grant from Texas IOLTA to upgrade legal services program technology;
- the Outreach Committee coordinates a thrice-yearly mailer to every lawyer in Texas;
- the Corporate Counsel Committee has regular meetings of corporate counselors to educate them about ATJ issues and to raise money from corporate donors.

Texas utilizes non-commissioners on their committees. Several committees have members who are not on the commission; however, a Commissioner chairs each committee. The committee members may change over time; they are workgroup and project specific. Colorado and California also use committee members who are not Commissioners. Justice Hankinson recommended that Arkansas expand and take on committee members who are not commissioners; it helps expand the reach of the Commission.

Justice Hankinson also urged Arkansas to consider restructuring the standing committees at this point through the strategic plan and recommended Arkansas look to the Texas ATJ strategic plan as a model. She noted that Texas had never changed their

goals from the start, but since they put the strategic plan in place Texas increased exponentially the amount and depth of what they were able to accomplish.

Arkansas and the Twelve Lessons of Successful ATJ Efforts

An ABA document, *Twelve Lessons from Successful State Access to Justice Efforts*, was utilized in advance of the meeting as a survey tool for the Commission members.

Justice Hankinson and Dean Goldner led a discussion of the results. .

- Stronger relationships need to be developed with the government, business, labor and education sectors.
- In priority order, funds for the Commission need to be sought from the courts, private foundations, the bar association and IOLTA.
- It is important to consider bringing a Federal District Court judge onto the Commission.
- All the Commission's institutional partners can do more for the work of the Commission. These include the state legislative and executive branches, bar leadership, circuit court judges, local bar associations, bar foundation and the supreme court. [The law schools should be added to this list.]
- The Commission should be more active in publicizing its work through regular releases of information to state and local bar associations and the courts, publication of an annual report, media notices and media interviews of Commissioners.
- An overwhelming majority [78%] of Commissioners felt there was an effective balance between the Commission's vision and goals.
- The Commissioners responded that the most productive way of securing an understanding of client community needs was through regular reports from the two legal aid organizations which had a pulse on these needs.
- With regard to maintaining transparency and trust with Commission partners, an excellent job was reportedly done with the supreme court, legal aid organizations, and the two law schools. A good job occurred vis a vis bar leadership and the bar foundation. Fair to poor transparency and trust was exhibited with circuit courts, the legislature and the governor. Dean Goldner concluded that the Commission needed to enhance in a comprehensive way its communications and contacts with all groups throughout the state.
- The last survey question was a self-reflection on how well each Commissioner promoted cooperation and consensus within their own community – 10% responded Excellent, while 60% felt good and 30% fair about their roles in this regard.

Three questions which did not lend themselves to the survey format were discussed next: individual leadership, cultivating new leaders, and staff capacity.

Currently, the Commission does not provide any funding for staff. Two of the staff members are paid by the two legal services providers, Center for Arkansas Legal Services and Legal Aid of Arkansas as the Arkansas Legal Services Partnership. The ALSP obtained a grant from IOLTA for a part-time position which is the third staff person working for the Commission.

Ms. Jean Carter spoke to the question of whether the ATJC should begin seeking funds for staffing. She stated that it is all about what should be invested in. The Commission needs people devoted to carrying out its day to day activities only. Legal Services views the Commission as being the support structure for legal services to build stronger platforms upon. Justice Hankinson reiterated the value in tying the legal aid organizations and the Commission together through staff. Dean Goldner concluded that a need exists to consider expanding funding for staff.

Several ideas emerged from this overall discussion of the 12 Success factors.

- Create an Access to Justice Day (based on ABA Day in Congress) for the Arkansas legislature. This will be helpful because of term limits there is a need to constantly communicate and re-educate new legislatures. Develop a welcome/introductory packet for new legislators and have meetings with them – this should become an institutional practice. Given the tendency of some seats to remain with the same political party, education can begin immediately after the primary elections.
- The Commission should start writing grants to financially support its objectives.
- Weighing in on policy should be an important function of the ATJ and this can include the federal judiciary. The Arkansas ATJ should be a presence. Justice Hankinson noted that the Texas ATJ regularly votes on policy issues and then sends a resolution to the considering/involved entity.
- Publish an Arkansas ATJ Annual Report. [As a temporary measure, send copies of the Arkansas ATJC brochure to all Commissioners for their use.]
- Arkansas will need a “political action group” (i.e. legislative committee) to study and maintain a relationship with this critical body. There must be regular and continuous communication and education of legislators. A whole program needs to be put into place, even to the point that when a candidate is running for office s/he should be asked their position on legal aid funding. This needs to be a two-way educational process, the Commission must understand what the legislators’ positions and priorities are as well. Corporate Counsel members especially should be sent to the legislators armed with information from the Commission.
- Many states have a state of the judiciary speech given to the legislature by the Chief Justice of the state’s supreme court --- Arkansas currently does not. Part of this speech should include the status of and the judiciary’s support of the access to justice movement. Justice Imber will put that on the agenda for a subsequent meeting of the justices of the Arkansas Supreme Court.
- Regular ATJ communication to the public on the news side and the editorial side of print media. In Texas, they used a lot of different people to contact the media, whoever had an in and they made personal visits to get their stories in the press.

Justice Hankinson stated that as Arkansas adopts a strategic plan that responses to all twelve of these success factors should be used as components of that document.

Access to Justice Checklist

Justice Hankinson next led the Commission through a discussion of the Access to Justice Checklist document. Items which emerged were written under the following headings on flip charts as possible priorities to be voted upon later in the meeting for inclusion in a strategic planning document.

Educational Awareness

- Develop a consistent marketing plan
- Develop Speaker packets
- Bar and specialty Bar educational outreach
- Publish an annual report
- Increase media presence
- Distribute materials to non-profits that serve low-income communities
- Submit regular articles for Arkansas Lawyer and other legal publications.

Funding for Civil Legal Aid Assistance

- Part of the strategic plan should address resource development – a look for potential sources of money in Arkansas. This can be project based such as for a brochure, DVD or online form.
- Increasing fines for domestic battery convictions
- Increasing filing fees for complaints generally
- Law license add-on increase (perhaps as a voluntary additional contribution). Texas has a voluntary contribution check box on their mandatory form and they bring in \$500,000 dollars annually through this campaign.

Pro Bono

- Providing pro bono case priorities on the docket
- Emeritus rule change (allowing inactive attorneys - teachers or retired - to do pro bono cases)
- Publicize pro bono malpractice benefit and free poverty law training
- Pro bono awareness training for law students
- Recruitment campaigns throughout the state
- Support lawyers voluntary reporting of pro bono hours

Student Loan Repayment Assistance

The Commission discussed Senator Harkins Bill in Congress that will provide loan forgiveness for attorneys entering civil legal aid, public defender, and prosecutor jobs. The bill is currently sitting in committee. Chair Goldner wrote a letter of support to the Arkansas congressional delegation.

Court Access and Pro Se

- Educating judges, clerks, and others on pro se assistance resources [Judge Brown suggested one ethics hour on pro se be included in next May's District Judges meeting.]
- Need to address market resistance by providing lawyer education

- Expand Self-help centers
- Continue standardization of forms
- Unbundling of services
- Review of local court rules (those that turn away pro se litigants).

State Agency Administrative Fairness

- Independence of ALJ's
- Appeals process

Legislative Strategy

- Recruit volunteer lobbyists to join staff lobbying
- Legislature education (overall, targeted, and new members)
- Involvement in the development of the bar legislative packet
- A constant ATJ agenda item
- Create a Governor's packet
- Determine early on who should be brought into a coalition of supporters for Commission legislation.
- A brochure and other materials are needed that can be distributed to legislators and community partners about legal aid. These would be written so that legislators could send these to a constituent who called their office in need of legal help. We must help our legislators so they recognize our value and will help us.

Technology

Sustainability of website and other technology
Information on the website must go out to all stakeholders

Prioritizing Objectives for 2007-2010

Each Commissioner had ten color dots with which they were asked to identify their priorities by placing those dots on items they wanted to give priority to for the next three years. In addition, each Commissioner also received a gold star with their name on it. That star was to be placed on any single item which they were passionate about achieving. The results of this process are reflected below.

Strategic Planning Session Ten Strategic Priorities for 2007 – 2010*

** In priority order*

1. Establish a Legislative Committee
2. Obtain a State General Revenue Appropriation
3. Reorganize the Commission Committees

4. Pro Se – Provide Education for Judges and Clerks
5. Educate the Legislature
6. Pro Se – Educate Lawyers to overcome market resistance
7. Provide Technology Sustainability
8. Education Campaign for the Bar and Courts
9. Pro Bono - Recruitment Campaign
10. Pro Se – Establish Additional Self-Help Centers

Closing Statements

Dean Goldner stated that further strategic planning resulting from the above action items can initially take place within the current committee structure. However, part of each committee's consideration should be what a new Commission committee structure might look like for the future. Further, he asked staff to circulate the outputs of this meeting to the committees for consideration and decision making by the end of August. A Strategic Plan will be created based on the actions of the committees as sanctioned later by the full Commission.

Justice Hankinson stated that she, Bob Echols, and Meredith McBurney are available through the ABA for consulting as Arkansas needs them.

Chair Dean Goldner thanked Justice Hankinson and the ATJ staff for a successful and productive day.

The meeting was adjourned at 2:45 PM.