

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE DELAWARE §  
ACCESS TO JUSTICE COMMISSION §

**AMENDED ORDER**

This 15th day of December 2014, it appears to the Court that:

On September 16, 2013, Justice Jack B. Jacobs, on behalf of the Supreme Court, convened an exploratory committee (the “Committee”) to consider whether access to justice for low and moderate income Delawareans is an area of critical need. The Committee unanimously agreed to recommend that Delaware establish an Access to Justice Commission (the “Commission”) to identify the critical needs related to access to justice in Delaware and to develop realistic and cost effective solutions to those identified needs. The Commission is intended to be comprised of private citizens who can bring an independent perspective to bear on important issues of justice, and to make recommendations of value to all stakeholders of our system of justice. As initial steps to address its long-term mission, the Commission will study and make recommendations to address: (i) whether resources devoted to providing legal services to the poor are effectively deployed, whether there would be gaps in funding regardless of whether resources are optimally deployed, and creative means to close any gaps; (ii) the difficulties that confront lawyers who wish to provide legal services to clients of ordinary means and to do so in a manner that enables them to run their law firms in a profitable,

ethical and sane manner; (iii) means to increase the pool of qualified legal advisors to help litigants of limited means, such as increasing pro bono service by in-house counsel and by members of the bar who are not litigators, and considering whether forms of limited representation should be authorized in critical areas of need; (iv) rationalizing and coordinating the efforts of the various courts in helping pro se litigants, including by considering broadening the role of the law libraries to make them a central resource in the provision of services to pro se litigants in all courts; and (v) identifying the causes of the stark disparity between the percentage of Delawareans who are black and the percentage of those incarcerated in Delaware's prisons who are black, and recommending measures to ensure that this disparity does not result from racial discrimination and to reduce any inequities that are not justified as a matter of sound criminal justice policy.

NOW THEREFORE, IT IS ORDERED THAT:

1. As of December 15, 2014, there shall be established a Delaware Access to Justice Commission, which shall gather information to evaluate access to justice in Delaware, identify inequities, and develop recommendations for comprehensive and coordinated responses to those identified needs.
2. The Commission shall be established for a term of two years.
3. Commission members shall be appointed by the Chief Justice and shall serve a two year term commencing upon the execution of this Order.

4. The Commission shall establish the following subcommittees to assist in carrying out its mission and operations as follows:

a. Subcommittee on the Efficient Delivery and Adequate Funding of Legal Services to the Poor. This subcommittee shall:

(i) Evaluate whether the existing organizations providing legal services to the poor are operating in an efficient manner and identify any opportunities for more effective deployment of existing resources.

(ii) Determine whether, even if current resources are used in the most efficient manner, there would remain gaps in service that must be addressed by additional funding.

(iii) Identify possible sources of additional funding to address gaps in services.

b. Subcommittee on Judicial Branch Coordination In Helping Pro Se Litigants. This subcommittee shall:

(i) Examine whether the judiciary is effectively coordinating its approach to helping pro se litigants, including exploration of technology solutions.

(ii) Explore ways the courts can coordinate their pro se assistance efforts more effectively and consider conversion of currently underutilized law libraries into pro se assistance centers that are not court specific.

(iii) Consider whether Delaware should allow limited legal representation in specific areas where litigants have difficulty obtaining affordable legal services and a compelling human need, such as cases involving evictions or family law.

c. Subcommittee on Promoting Greater Private Sector Representation of Underserved Litigants. This subcommittee shall:

(i) Examine the impact of revenue challenges on small firms and solo practitioners representing clients of limited means, and identify ways to support these practices, such as by providing free or more affordable CLE in key areas like management of small legal practices, the creation of a Law Office Management Assistance Program to provide consulting services, whether free of charge or at a fee substantially lower than market rate, and the creation of a statewide clearinghouse for law office management materials and services geared toward solo and small firm practitioners.

(ii) Determine whether there are private sector businesses that could help small legal practices in Delaware operate more effectively.

(iii) Explore ways to increase the level of pro bono legal services provided by the Bar such as training for lawyers who do not practice litigation as their specialty and in-house lawyers, increasing awareness of available pro bono opportunities, enhancing training resources for practitioners taking on pro

bono representation in new subject areas, and encouraging law firms and corporations to communicate the expectation that pro bono work is part of a lawyer's professional obligations.

d. Subcommittee on Fairness in the Criminal Justice System. This subcommittee shall:

(i) Study the causes for the disparity between the percentage of Delawareans who are black and the percentage of Delaware's prison population who are black. In this effort, the subcommittee shall seek help from qualified academic, social science, and criminal justice experts.

(ii) Report on these causes with as much specificity as possible.

(iii) Identify measures to ensure that any existing disparity does not result from racial discrimination.

(iv) Analyze the criminal code, sentencing guidelines, and other relevant criminal justice policies and procedures to determine whether modifications are required to address policies or practices that may generate inequities in the treatment of defendants.

(v) Identify recommendations for policy changes to be pursued by key criminal justice policymakers, and the appropriate policymaking body to further study and pursue implementation of each of the recommendations.

5. The Commission shall have the discretion and authority to create additional subcommittees and appoint membership to those subcommittees which shall help the Commission in carrying out its duties under this Order. Judges, staff, and employees of the State may participate on subcommittees but solely as non-voting members.

6. The authority of the Commission and its subcommittees shall be limited to that created by this Order and any subsequent Orders of the Delaware Supreme Court.

7. Any recommendations by the Commission shall be made in the name of the Commission only, and not of the individual members or the institutions by which they are employed.

8. The Commission shall submit an annual progress report to the Supreme Court of Delaware.

BY THE COURT:

/s/ Leo E. Strine, Jr.  
Chief Justice