
Appendix I

**Access to Justice Hearing
October 30, 2007
Fort Collins, Colorado**

**Co-Sponsored by
The Colorado Access to Justice Commission and
The Eighth Judicial District Access to Justice Committee**

Appendix I
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Summary of Fort Collins Access to Justice Hearing

The Fort Collins Access to Justice Hearing, sponsored by the Colorado Access to Justice Commission and the Eighth Judicial District Access to Justice Committee, was held on October 30, 2007. Thirty-nine attendees, including a panel consisting of Connie Talmage, Chair, Colorado Access to Justice Commission; Gregory Hobbs, Jr., Justice, Colorado Supreme Court; James Hiatt, Chief Judge, Eighth Judicial District; Steve Johnson Republican State Senator, District Fifteen; Randy Fisher Democratic State Representative, District Fifty-Three; Nancy Hunter, from the office of U.S. Congresswoman Marilyn Musgrave; Glenn Gibson, Larimer County Commissioner; and David Johnson, Larimer County Bar Association President, heard testimony from the following witnesses: Reenie Terjak, Colorado Legal Services; Kim, a Colorado Legal Services client; Debora Wagner, Colorado Legal Services; James Hiatt, Chief Judge, Eighth Judicial District; Jennifer Rice, Chair, Eighth Judicial District Local ATJ Committee; Victoria Lutz, Executive Director, Crossroads Safehouse; Rosemarie Fritz, Executive Director, Alternatives to Violence; Annie, a client of Alternatives to Violence; Keith Colton, Triage Coordinator, Alternatives to Violence; and Jim Peters, Colorado Access to Justice Commission Resources Committee Member.

The witnesses testified regarding the critical need for additional civil legal services for poor people in their area. Providers of such services explained what they were able to do with the scarce resources currently available, and what they could do with further funding. Judge Hiatt told the attendees about the effect on the court system of unrepresented litigants in civil cases, and he also pointed out the need for more resources for interpreters for non-English-speaking and hearing-impaired persons. The panelists and attendees also heard testimony about the efforts being made by the Eighth Judicial District Access to Justice Committee to address some of the issues that were raised, as well as testimony from clients about what the assistance they had received meant for their lives. The need for legal assistance extends not only to people who meet the poverty guidelines for legal aid from Colorado Legal Services, but also for those who have income above those guidelines but still cannot afford a lawyer.

Fort Collins Panelists

<u>Name</u>	<u>Affiliation</u>
Connie Talmage	Panel Chair; Chair, Colorado Access to Justice Commission
Randy Fischer	State Representative (D-Larimer)
Glenn Gibson	Larimer County Commissioner
James Hiatt	Chief Judge, District Court, 8th Judicial District
Gregory Hobbs, Jr.	Justice, Colorado Supreme Court
Nancy Hunter	Office of U.S. Congresswoman Marilyn Musgrave
David Johnson	President, Larimer County Bar Association
Steve Johnson	State Senator (R-Larimer)

Fort Collins Access to Justice Hearing Witnesses

<u>Name</u>	<u>Affiliation</u>
Reenie Terjak	Attorney, Colorado Legal Services
Kim	Client, Colorado Legal Services
Debora Wagner	Staff Attorney, Colorado Legal Services
James Hiatt	Chief Judge, District Court, 8th Judicial District
Jennifer Rice	Chair, 8th Judicial District Access to Justice Committee
Victoria Lutz	Executive Director, Crossroads Safehouse
Rosemarie Fritz	Executive Director, Alternatives to Violence
Annie	Client, Alternatives to Violence
Keith Colton	Triage Coordinator, Alternatives to Violence
Jim Peters	Commissioner and Resources Committee Member, Colorado Access to Justice Commission

Summary of Witness Statements

Attendance - 39

Reenie Terjak

Ms. Terjak is an attorney with Colorado Legal Services (CLS). She presented an overview of CLS, which provides assistance in civil cases to individuals and families throughout the state whose incomes are within 125% of federal poverty guidelines. Statewide, CLS currently has forty attorneys serving in fifteen offices. In 2006, it served 6,632 eligible clients, primarily in the areas of family law, income maintenance, and consumer law. Additional details of this presentation are included in Appendix A.

Kim

Kim is a CLS client. She is a single mom trying to go to school to better her life. She was being sued by a creditor for debt she had incurred. CLS was initially able to help her structure an affordable payment plan. However her debt did not end there, as she has college student loans that are in default as well. Although CLS only has two attorneys in the area, and they are severely overtaxed, they have been amazingly helpful to her. She is unable to afford a private attorney, and is unable to do many things that are important to her future success. For example, she cannot get a bank account because creditors would seize it, and she is unable to get a job because creditors would garnish her wages. CLS attorneys are currently helping her with these problems, but she and countless other people would be helped if CLS and legal aid services had more resources.

Debora Wagner

Ms. Wagner is the managing attorney for CLS in Larimer County. She is concerned that CLS is unable to provide for client needs in most situations because of over-taxation of resources. In fact, Ms. Wagner and the other local CLS attorney generally work weekends, and they are constantly chasing money from any possible source. In the last three months in Larimer County, 56 eligible clients were turned away, of whom 19 were domestic violence survivors. These are people who need legal help but are unable to get it from CLS due to inadequate resources and funding.

CLS does what they are able to with scarce resources, and they have found that one of the most efficient methods to get legal help to the most people is through the operation of a legal clinic. At these clinics, individuals are able to meet one-on-one with an attorney, and they receive legal advice and brief counseling. These clinics are in such high demand that the divorce clinic has been booked solid through December. They are currently in the process of finding a new space that will accommodate the growing demand. CLS does its very best to not duplicate services that are provided by other agencies, such as the local pro bono association, but overall CLS just does not have the resources and funding needed to meet the growing demand in the area.

Question from Sen. Steve Johnson: Judicial filing fees have recently been increased in an attempt to accommodate the overload that judges have in their courtrooms. Is that affecting poor clients' ability to litigate civil matters, and is that a concern?

Response from Reenie Terjak: Fortunately there is a program in place that allows clients that fall within poverty guidelines to get a waiver of judicial fees.

Question from Sen. Steve Johnson: Can individuals who are poor but outside of the qualification guidelines for poverty for CLS services afford judicial fees?

Response: It costs around \$200 dollars to file an action, so many of these individuals are unable to afford the filing fees.

Judge James Hiatt

Judge Hiatt is the Chief District Court Judge in the 8th Judicial District. He is extremely grateful for all who have come together to bring this issue of legal representation for the indigent to the forefront. The 8th Judicial District of Colorado is growing, and there are increasing demands in the courtroom. This is a problem because there are many litigants who need quick resolution of their legal issues, such as business owners and divorcing spouses. The state legislature has ameliorated the problem of backlog to a degree by granting a new district judge, with others to be added in the coming years. However, “justice delayed is justice denied.” These judicial delays are barriers to justice.

A brief overview of the 8th Judicial District shows that there are six district court judges and four county court judges, as well as a number of magistrates who have been given authority by statute to make certain rulings under the supervision of judges. There are approximately 9,600 filings per year in district court with an additional 33,000 filings in county court. Pro se litigants have gone from an oddity to a significant portion of all litigants in court in recent times, as people have been unable to afford legal representation. For example, one-half of all domestic cases have at least one pro se party. This significantly affects the courts, both in their efficiency and in their distribution of real justice. The majority of pro se litigants do not know their rights and do not understand the proper way to proceed in court. This serves to inhibit judicial efficiency and distorts justice, because these individuals are unable to articulate their cases properly. CLS and other legal aid services attempt to address the problems associated with pro se representation, but they are only able to take the most egregious cases. Additional funding and legal representation are most important to help judicial efficiency increase, and to free up the backlog of cases plaguing the courts.

Language barrier issues, such as lack of interpreters and resources in court for hearing-impaired persons, continue to be issues for the judicial system. If people are uncomfortable with English, there is a significant chance that they will avoid the system altogether. The Due Process Clause of the Constitution makes it clear that people should get interpretation services in court, and there are those resources in Larimer County, but they are severely taxed. There need to be more resources for interpreters for non-English-speaking and hearing-impaired persons to ensure adequate access to justice.

Access to justice includes the concept of courts being involved actively in cases from beginning to end. Active involvement of the courts helps to ensure that the appropriate result is achieved both efficiently and promptly. For example, if person A sues person B, and B justly wins, it is still not the proper result if it takes twice as long to resolve the issue as it should have. Time and money are good indicators of efficiency, and if these could have been saved, the question remains: Has justice really been served? This is an issue that we need to be aware of. Additional representation for individuals who otherwise would be pro se litigants will help to ameliorate the problems that courts are currently facing.

Jennifer Rice

Ms. Rice is an attorney and the Chair of the 8th Judicial District Access to Justice Committee. The local community has some legal aid services for the indigent at its disposal. For example, the local bar association has implemented a successful pro bono program. This association gets money through COLTAF to hire a part-time paralegal to coordinate clients with various pro bono attorneys and perform intake responsibilities. The bar association pro bono program is not as strict as CLS regarding the poverty guidelines for participant qualification, and clients who are accepted have the opportunity to meet with attorneys for guidance and advice. Intakes are held one time per week in Fort Collins and Loveland.

The local bar association also helps poor individuals with the forms and processes necessary to proceed with their legal actions. They have recently assisted between 400-500 people in Fort Collins and over 300 in the Loveland area with these services. Over 75% of the cases they handle deal with various forms of domestic relations: i.e., divorce, maintenance, and property division. In an ideal world, everybody who comes to them for help would be paired with a volunteer attorney, but in reality less than 10% of all clients are placed with an

attorney. This occurs primarily because, of the 400 attorneys in Larimer County, only a small percentage handle domestic relations cases. Loveland placement rates are even less; almost all clients are given brief advice and then sent away.

The association also holds a pro se clinic twice a month. These clinics, initially designed to be lectures, have ended up being one-on-one counseling sessions where attorneys or paralegals give advice. The family court facilitator also provides a domestic assistance class twice a month for help with procedural issues. Among other services provided, four times a year a law firm will open its phones for free advice staffed by young lawyers in Larimer County, and a website has been created which lists forms, court dockets for the following two days, and other legal resources such as important phone numbers. For the future, the local ATJ committee is downsizing its law library to create space and make the information in the library accessible to the public.

The needs for legal services are overwhelming, however, and these needs are evidenced by the numbers of people who are turned away due to lack of resources and funding. Ideally, and to meet the growing needs in this area, more domestic issues attorneys are needed, as well as increased funding for legal representation in court and for courts themselves. Courts need additional funding for various reasons. For example, if a divorce case drags on for four or five months, there is an increased chance that something will go wrong between the parties before a resolution is reached. Judges do the best they can to deal efficiently with cases, but more resources are needed.

Question from Sen. Steve Johnson: What incentives are given to attorneys to do pro bono work?

Response: The local bar association encourages a set amount of pro bono work, and malpractice insurance is taken care of under the bar association's malpractice policy. Attorneys often worry about taking a complicated pro bono case due to fear of malpractice, but now that they are covered under the bar association's insurance policy, they have an incentive to take the case.

Question from Sen. Steve Johnson: It seems that the United States has more lawyers per person than other industrialized countries. Why do we have such issues with access to justice, and have you explored other countries' methods of dealing with their indigent population's need for legal services?

Response: Overall the United States is more litigious than other countries. Moreover, our judicial system is likely more complicated and pro se litigants have problems with this complexity.

Response from Connie Talmage: Attorneys in Colorado are very generous with their time and money in supporting legal services. Many law firms, for instance, have adopted pro bono programs requiring 50 hours each per year from their attorneys. The state does an amazing job, but it still is not enough.

Response from Justice Hobbs: A pro bono attorney is not as good as a full time legal aid lawyer. There is no substitute for paid legal representation, and full time attorneys are vital to bridging the justice gap.

Victoria Lutz

Ms. Lutz is the Executive Director of Crossroads Safehouse and is grateful for the opportunity to speak about the met and unmet legal needs of low-income people in Colorado. She is an attorney and former law professor. In her current position as executive director of the safehouse, she has learned many things. While she does not have statistics that detail the percentage of domestic violence victims in this judicial district who are indigent, she knows that over 78% of Crossroads Safehouse's clients live below the federal poverty level, and over 95% of their clients live below the adjusted local poverty guidelines for this region.

Legal services significantly reduce the instances of domestic abuse. In April 2003, Contemporary Economic Policy published a report finding that: "While most services provided to help battered women do not impact the likelihood of reabuse, the provision of legal services significantly lowers the incidence of domestic violence." Thus, legal services have a greater impact on reducing domestic violence than safe housing, job skill training, transitional housing, or any other service. In other words, in the absence of available attorneys to help battered women, they are likely to be battered again.

Crossroads has a two-part legal program to help its clients. The first, provided after CLS was unable to provide detailed assistance due to funding inadequacy, is a legal advocacy program. CLS was great to work with and helped with emergency cases, but they were unable to provide funding for their programs. A full-time legal advocate and domestic abuse response team (DART) provides a 24/7 on-the-scene and follow-up legal advocacy to domestic violence victims in this county. Most of the work of this non-attorney division is criminal court accompaniment, assistance with victims' compensation, making sure clients receive their protection orders and following up with clients at the Safehouse or as outreach clients.

The second part of the Crossroads' legal program is legal representation called *Bringing Justice Home* that has two main goals: 1) to enhance survivor autonomy by increasing legal representation for survivors of domestic violence, and 2) to offer a safety net of services, including training. *Bringing Home Justice* is a federally-funded full representation legal division of Crossroads Safehouse. They decided that Steamboat Springs and Craig were two towns where virtually no legal assistance is available, so they set out on the road to provide those services. Some wonderful attorneys are serving those clients, but they have to turn away 40% of applicants who come to them for emergency and domestic issues litigation.

The unmet legal needs in the area are many. In such a large region, geography needs are high. For example, more people are needed to provide services in rural areas well outside of Larimer County. It is not efficient for an attorney to travel all the way to Craig for a fifteen minute hearing, when they will then be unable to do three cases in Fort Collins. Having to make this decision between clients in need is not right, and for this reason more legal assistance attorneys must be provided. Ms. Lutz pleads that this group look at domestic violence and the safety net the law provides, and realize that victims cannot leave abusive relationships without legal resources. According to the research she has performed, increased funding for legal services is the best manner in which to increase these resources.

Finally, another problem is the number of clients who cannot afford an attorney but are not poor enough to be eligible for legal services. A few thousand dollars or ownership of a car may be the difference between free legal counsel and no counsel at all. It is unconscionable that in the most idyllic state in the union, where the population has increased by leaps and bounds in the last decade, the amount of funding appropriated for civil legal assistance for the indigent has not increased since July 1, 2002. We need to support increased state-appropriated funding for legal assistance for low and middle-income victims of domestic violence in Colorado.

Rosemarie Fritz

Ms. Fritz works for Alternatives to Violence and has heard one word mentioned a lot tonight: Poverty. 50% of homeless people are homeless because of domestic violence. They have a critical and life-saving need for legal services. Legal assistance is the primary way they can get out of this cycle of violence and homelessness. These people are the human face on this issue of inadequate legal representation. The worst thing she finds in her office is when she is unable to give hope to her clients. The despair of hopelessness generally occurs when the client is unable to get legal representation. It seems the man in the relationship has all the resources, while the woman has none and cannot afford an attorney. The cycle thus continues, because the woman returns to the abusive relationship because she loses hope. Ms. Fritz cannot stress enough the need for competent lawyers that understand domestic violence issues. Without increases in legal assistance, the problem will continue.

Annie

Annie is an Alternatives to Violence client who wants out of a domestic violence relationship. She was initially turned down by CLS because she does not meet the poverty guidelines. Her husband drained their joint bank account and her options are limited. Twenty-seven years in an abusive relationship is enough. She could file as a pro se litigant without mediation but she fears for her safety. She will try to file on her own, but knows that without representation, she is leaving herself in a potentially very dangerous and violent situation. If additional funding is approved, perhaps more women like her will be helped.

Keith Colton

Mr. Colton also works at Alternatives to Violence and helps people who come in to deal with various issues. Everybody who comes in is virtually in the same situation as Annie. He finds that the legal system is the biggest problem. They counsel people regarding pro se clinics, but they are asking people to climb a mountain with no guide. They have to tell people that they cannot be a guide; they are only an advocate and cannot provide legal services. Every single client tells him that the legal system is inaccessible and frightening, and it forces them back into terrible situations. Every single person has legal service issues and could benefit from legal assistance in one form or another.

Jim Peters

Mr. Peters is a member of the Colorado Access to Justice Commission and serves the commission's Resource Committee. He described the sources of funding for CLS, including the federal Legal Services Corporation, the Colorado Lawyers Trust Account Foundation, the legal community, and state funding. Mr. Peters explained that Colorado's state funding (\$500,000) now ranks fortieth nationally and would need to increase an additional \$1.82 million to become average. Additional details of this presentation are included in Appendix B.

Question from David Johnson: How much effort do you put forth in terms of private donations from private entities and corporations?

Response: The Legal Aid Foundation does extensive fundraising and encourages lawyers and corporations to donate more than they already are.

Question from Sen. Steve Johnson: There has been no state funding increase recently as we have not received any formal requests. Governor Ritter knows this issue very well and his budget appropriation is due in two days. Is this a priority for his administration?

Response from Connie Talmage: We have approached him, but the purpose of these hearings is to educate people like him and other decision-makers, and to determine the specific needs. The Governor was the opening speaker at the American Bar Association's Equal Justice Conference last spring in Denver, and there he expressed strong support for access to justice issues. We are looking forward to having a specific conversation with him about this issue. We first need to see what the need is, and these meetings have thus far shown that this is a huge problem.

Response by Sen. Steve Johnson: He appreciates the information and awareness he has received and will look more into the issue.

Question from Rep. Randy Fisher: Has anyone ever done an analysis of underfunded legal services, such as what it is costing the state to provide for other services conceived by the lack of legal resources for the indigent? It seems to Rep. Fisher that this is a serious case of an area where further costs could be avoided down the line if this particular area is more thoroughly funded. He is shocked that the state only provided \$500,000, which is only a pittance. How do these priorities happen?

Response from Victoria Lutz: With legal representation, more women could cost the state less down the line, for example, they would go off of welfare and foods stamps. There is also a huge medical cost associated with domestic violence, and legal help will cut down that cost as well.

Response from Jim Peters: The price children pay who are involved in these situations is too high as well. They have poor health, no tapped potential, and the cycle repeats if there is no legal help.

Fort Collins Access to Justice Hearing Press Release

October 26, 2007
For immediate release

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Legal Services Solutions for the Vulnerable

Access to Justice Commission visits Fort Collins

Fort Collins will be holding a hearing to determine the civil legal needs of low-income individuals in its community on Tuesday, Oct. 30, 4–6 p.m., at the Larimer County Justice Center, Jury Room. A one-hour reception will follow the hearing in the Justice Center Food Court at 6 p.m. Catering will be provided by Food for Thought Catering, Ltd.

Access to Justice hearings are being held across the state to identify the gaps of legal services and to evaluate the specific needs of communities. Each hearing includes legal services clients and service providers, as well as members of the legal community.

“Colorado is substantially below the national average in funding for legal services for poor people,” said Fred Baumann, Access to Justice Resource Committee chair. “We would need another \$2.5 million just to bring our state up to average. That’s a serious problem.”

The legal issues confronting Colorado’s poor most often include the basic human needs of shelter, sustenance, safety, health care and child custody. Their cases deal with protection orders, domestic violence, medical benefits, social security, SSI, food stamps and more.

“Although we help a large number of low-income individuals and families facing legal problems, there are many more whom we cannot help despite their critical legal needs,” said Jon Asher, Colorado Legal Services director. “From women and children who have been abused, to homeless individuals, to families facing eviction or foreclosure, those needing medical care for themselves or their families, veterans and other disabled citizens — we must do more to help meet the legal challenges facing those who can’t help themselves.”

Nationally, less than 20 percent of the poor’s legal needs are addressed with a private attorney (pro bono or paid) or a legal-aid lawyer, according to a Legal Services Corporation report. There are 6,861 eligible low-income people for every legal-aid lawyer in the nation. In the general population, there is one attorney for every 525 people — more than 10 times the ratio of legal-aid attorneys to the population they serve.

Access to Justice Commission members include appointees by the governor, the Colorado Supreme Court, the president of the Senate, the speaker of the House and the Colorado Bar Association. Local Access to Justice Committee members are judges, lawyers, service providers and others interested in eliminating the barriers in the legal system for low-income individuals.

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The mission of the Access to Justice Commission is to develop, coordinate and implement policy initiatives to expand access to and enhance the quality of justice in civil legal matters for persons who encounter barriers in gaining access to Colorado’s civil justice system. Additional information about the Commission is available at www.ColoradoJustice.org.

Eighth Judicial District Access to Justice Committee Members

<u>Name</u>	<u>Affiliation</u>
Jennifer Rice	Committee Chair, Local Private Attorney
Christine Carney	Judge, 8th Judicial District Court
Susan Winfield	Magistrate, 8th Judicial District Court
Cynthia Hartman	Magistrate, 8th Judicial District Court
Sherlyn Sampson	Larimer County Combined Courts
Andrea Shahmardian	Family Court Facilitator
Cliff Riedel	District Attorney's Office
Paul Cooper	Fort Collins Probation Department
Victoria Lutz	Crossroads Safehouse
Karin Troendle	Colorado Legal Services
Janet Laughon	Colorado Public Defender's Office
Heather Zadina	Chair, Larimer County Bar Association, Pro Bono Program
Cindi Hendrix	Coordinator, Larimer County Bar Association, Pro Bono Program
Kim Salinas	Fuerza Latina Coordinator
Rosemarie Fritz	Alternatives to Violence
James Hiatt	Chief Judge, 8th Judicial District Court, ex-officio
David Johnson	President, Larimer County Bar Association, ex-officio

Eighth Judicial District Access to Justice Committee Recent Accomplishments

See summary of testimony of Jennifer Rice, above.