

2018 Hawai'i Access to Justice Conference
"Fighting for Access to Justice for All"
Friday, June 29, 2018

Workshop summary:¹

"Initiatives to Enhance Access to Civil Justice"

Presenters: Judge Joseph E. Cardoza (facilitator); Justice Simeon R. Acoba (ret.); Judge Ronald Ibarra (ret.)

The 2018 workshop regarding initiatives to enhance access to civil justice covered efforts being made to implement additional legal aid and resources to the common public. Retired Justice Simeon R. Acoba opened with an informational summary of the Justice for All ("JFA") Grant Project which consists primarily of the Hawaii Justice Foundation as the grantee along with other legislative, judicial, and executive funding entities. Hawaii was one of seven states to receive a grant for \$100,000, in which the Hawaii Justice Foundation also committed to supplementing additional funding. Justice Acoba expressed the larger goal of the project which seeks to supply 100% of the people in the state of Hawaii with enough effective assistance for essential civil legal needs. As a basis for understanding the challenges of legal navigation, community feedback is crucial. "Listening, engaging, and understanding values" are priorities expressed by Justice Acoba regarding communication with the community.

The JFA Grant Project met with various communities such as COFA migrant church leaders, immigrant attorneys, at-risk homelessness community members, and Maui mediation services to discuss prevalent issues of disadvantaged civilians and legal barriers. The most common obstacles accompanying accessibility to civil legal services include feelings of fear or hopelessness and the urgency of competing priorities like food and shelter. Barriers to receiving help stem mostly from geographic and economic insufficiencies, but also from the unavailability of certain civil legal services. Accessibility to legal information was found to be stifled by a lack of awareness and comprehension and insufficient informational resources.

Justice Acoba then detailed the JFA's multiphase plan to extend resources to those in need. Services include the supplying of medical attention and insurance to those who need it and oversight of the efficiency of Medicaid, housing, disability benefits, welfare, and domestic violence services. In the plan's first phase, Justice Acoba offered the implementation of community navigators or leaders in rural communities who would be able to extend basic legal knowledge to others in areas of high need. These community navigators could

consist of religious leaders, librarians, health clinic workers, academic leaders, and others who have earned the trust of different communities. Through training, said community navigators could utilize their trusted positions to extend learned legal knowledge to those of their particular community and refer more complex needs to legal service providers.

The use of preventative legal assessments in various settings is another facet of the JFA multiphase plan that enforces the use and integration of legal assessments within both legal and non-legal settings to identify challenges before they escalate. This would include extra opportunities for “legal check-ups” of which trained institutions would evaluate potential legal issues within community members. The evaluation could be done in concert with medical evaluations to document potential needs for both. Justice Acoba also detailed the critical need for stronger connections between institutions and alignments with social service organizations and programs. What he calls an “interagency roundtable” also proposes more involvement with government sectors and securing federal and other grant opportunities.

The implementation phase of the JFA Project incorporates community navigators that are trained and validated by experts. This phase aims to complete training of at least fifty community leaders from different geographic locations and develop a methodology for collecting data about the number of users assisted and the appropriateness of referrals. Justice Acoba stressed that the values of community navigators and of the Justice for All grant project center around the people and listening to their voices. The project aims to provide accessibility to legal, government, and community resources with the integration of effective technology. He also introduced the Pro Bono Appellate Program which is commissioned by VLSH, HSBA appellate law section, ICA, Chief Judge, and Supreme Court Staff Attorney. The program allows the HSBA to match attorneys to people with appellate cases who qualify financially. The project began in August of 2015, though it became a permanent implementation in April of 2017. The Pro Bono Appellate Program provides representation for lay people seeking appeals and gives the attorney an opportunity to work pro bono hours. These appeals must be non-criminal to qualify. So far, of the thirty-seven attorneys who are signed up with this program, twelve have taken cases

Justice Cardoza introduced the Volunteer Court Navigator program that aims to help people maneuver in the court structure. Court Navigators are volunteers who work to guide people within the court setting, help them organize necessary documents, and direct them through basic court procedures. These Court Navigators are also meant to stay with the pro se litigant throughout their hearing or mediation, assist with notes, and make sure the pro se litigant is on track with the correct procedures. Court Navigators do not provide any legal advice and only work as a guide within the technicalities of the court process. The majority of Court Navigators are comprised largely of retired persons,

paralegals, and other varied backgrounds and work only when it fits their schedule.

A Restricted License was also brought up by Justice Cardoza in which a person could obtain such a license with limitations and a payment plan attached in order to operate a vehicle. This license is much more restrictive than a regular license, though it allows people who are normally stifled by lack of motor vehicle control to gain some access to driving.

Along with assisting pro se litigants with navigation in the courts, Limited Scope Representation is also an idea that could be beneficial to the filing party. Rather than hiring representation for the entire process, an attorney could represent the litigant in certain matters like a settlement conference. This, Justice Cardoza states, could be a good business venture for counsel and a helpful boost for pro se litigants.

Judge Ibarra, in his twenty-eight years of trial experience as a judge, states that many times lack of representation for a litigant can have negative outcomes. Many hearings could have turned out differently should a litigant have had the proper representation, though Judge Ibarra knows representation is not a constitutional right with civil cases. He advocated a panel in which lawyers could volunteer pro bono and be appointed specifically by the courts for certain tasks or issues. The volunteer attorney would front up to \$1,500 for services, though should they exceed that amount they would need to apply for approval. This approach to arming pro se litigants with appointed legal help could level the playing field in civil matters and allow people to be equipped with proper counsel to ensure a fair and efficient trial.

¹ A draft was prepared by Danielle Woo, Legal Aid Society of Hawaii, and reviewed by the presenters.