

A FOUNDATION FOR JUSTICE

The Michigan State Bar Foundation's 70 Years of Public Service

By Jennifer S. Bentley and Linda K. Rexer

As the only two executive directors in the 70-year history of the Michigan State Bar Foundation, we feel privileged not only to be part of its history (and future) but to try to describe here its important public service programs and the significance of its many visionary board members, staff, and partners. Before 1987, volunteers managed the Foundation with some assistance from State Bar staff, illustrating the importance of the Bar's role then and throughout the Foundation's history.

Indeed, the idea to create a foundation came from the State Bar president in 1941, only a few years after the State Bar of Michigan itself was created in 1935. Glenn Gillespie saw the need for a foundation to support projects and activities that lawyers would undertake in the public interest. After World War II, the State Bar Board of Commissioners took up the proposal and passed a resolution at its 1947 annual meeting to approve creating the Michigan State Bar Foundation. Nonprofit articles of incorporation were filed near the end of 1947 outlining purposes¹ still central to the Foundation, as evidenced in its current mission statement:

The Michigan State Bar Foundation provides leadership and grants to improve access for all to the justice system, including support for civil legal aid to the poor, law-related education, and conflict resolution.²

That mission statement reflects what have always been twin aspects of the Foundation's role: funding and leadership. The form

those aspects take today may differ somewhat from the Foundation's beginning, but the effect is the same. The leadership component has always included interest in new and emerging issues that could be advanced through funding or other support. This is a more proactive approach than taken by some other foundations, from the early years of promoting research projects to improve the justice system in evolving legal areas³ to more recent efforts in which Foundation trustees and staff participated in or helped lead particular projects such as planning, with others, a successful legal self-help website and self-help centers to assist pro se litigants.⁴

Throughout its history, the Foundation has also periodically provided leadership and support to State Bar committee efforts related to its purposes; for example, both of the authors serve on the State Bar's Committee on Justice Initiatives, which is key to the Bar's work on access to justice for all. Trustees and staff have often participated on similar committees or provided leadership to national groups and relevant state or regional entities.⁵ The value of the collaboration in these efforts cannot be overstated, both in aptly using the Foundation's expertise and resources and in building ongoing relationships and mutual support with partners. As has been noted, the State Bar has been a key partner. In addition, the courts and those in state court administration have been important partners from the Foundation's beginning: in earlier years, the Law Revision Commission and the Judicial Conference; more recently, the courts'

support and leadership for the Michigan Legal Help Program.

Nonprofit legal aid programs, which now receive the largest share of Foundation grants, have given important assistance in identifying needs and opportunities in providing essential civil legal aid to the poor. Those efforts have included establishing legal advice hotlines around the state, which help many callers solve or prevent legal problems or find a referral to additional services; some of the first innovative technology systems in legal aid networks in the country, such as common case management software and centralized support for legal aid technology systems, brief/document banks, and web resources; and creating with the University of Michigan Law School (law schools being another important partner) a nonprofit support entity, the Michigan Poverty Law Program, to build capacity to provide legal aid services in individual programs throughout the state.

Civil legal aid to the poor became a focus for the Foundation when longtime Access to Justice leader and Foundation trustee John Cumiskey of Grand Rapids suggested a role to add support to the network of legal aid agencies around the country beginning to receive funds under the new federal Legal Services Corporation established in the mid-1970s. During the next decade, the Foundation began to explore IOLTA, as entities in other states obtained approval for these programs. In IOLTA programs, foundations receive interest on attorneys' client trust accounts in which sums too small or held too briefly to benefit the client are pooled and

Civil legal aid assures fairness for all in the justice system. Legal aid programs funded by the Foundation complete approximately 55,000 cases for low-income persons in Michigan each year.



generate interest on the aggregate for public purposes. Mandatory IOLTA was adopted by the Michigan Supreme Court in 1990 and has provided nearly \$30 million since, mainly for civil legal aid programs.

Annual IOLTA grants from the Foundation strengthened the Legal Services Corporation-funded network and other providers through more stable annual funding, which served to attract other local or philanthropic funds to the mix. In 1994, the Michigan legislature recognized the Foundation's central role in supporting civil legal aid to the poor in Michigan and assigned it the responsibility of administering filing-fee funds⁶ for distribution to legal aid programs. The Foundation developed peer review and other evaluation systems to assure the funds were used effectively and efficiently.

In 1997, the Foundation created and continues to hold the Access to Justice Fund through which private donations can be contributed, including donations made by lawyers and law firms to meet the financial side of their annual pro bono obligations.⁷ The ATJ Campaign continues as a partnership of the Foundation, the State Bar, and Michigan's civil legal aid programs; it has garnered more than \$16 million to date. The Foundation is working with the State Bar and legal aid programs to explore opportunities to expand the ATJ Fund in Michigan. It has also worked with others on the state and national levels to receive cy pres funds, which are unclaimed funds in class-action judgments or settlements.

(Continued on following page)

“Thank you to all who have assisted the Foundation in its mission to improve the administration of justice and increase access to justice for all in Michigan. With continued support from our donors, partners, grantees, volunteers, trustees, and staff, we can build on the Foundation’s 70 years of public service to meet the challenges of the future.”

—Al Butzbaugh, President, Michigan State Bar Foundation

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These important resources for civil legal aid have provided up to \$11 million a year for the dozen agencies who are the Foundation's major grantees—nearly half of the funding that Foundation legal aid grantees receive. Despite the Foundation's multiple sources of funding to support civil legal aid to the poor, the need still far outstrips available resources. Almost two million individuals in Michigan qualify for free legal aid because their income is below 125 percent of the federal poverty guidelines (\$25,525 a year for a family of three).⁸ The Foundation participates with the State Bar in advocating for more Legal Services Corporation funding for legal aid and working to increase pro bono contributions of legal services and financial donations.

Smaller grants can also make a difference. Beyond the 70 percent of IOLTA funds the Michigan Supreme Court directs be used for civil legal aid to the poor, the Foundation can use 15 percent of IOLTA funds for discretionary grants to improve the administration of justice.⁹ These grants are typically one-time funds to match other funding or leverage other services. They fund projects that improve the administration of justice through law-related education, conflict resolution, or assisting the delivery of civil legal aid to the poor. Examples include assistance for producing legal information for schools or the public, research into emerging areas such as restorative justice, conflict resolution programs including student peer mediation programs in schools, opportunities for legal aid programs to send staff to training or to try pilot projects, and various law-related education efforts. The latter was supported in various ways, including assistance for organizations training teachers; for many years, donations to the Foundation by the Irwin I. Cohn Memorial Fund helped provide scholarships for teachers to attend law-related education training during the summer at Michigan State University.

Other sources of funding for the Foundation's work include tribute and memorial gifts and the Fellows program, which was established in 1984. Since then, more than 1,500 Michigan lawyers in good standing have been elected as Fellows for their professional excellence and community contributions.

Fellows have contributed more than \$1.8 million to the Foundation since the program began. The Foundation also has other annual and life members who contribute dues.

The Foundation presents two major awards. The highest award is the Founders Award,¹⁰ given to a person who exemplifies professional excellence and contributions to community, including support for the Foundation. The Access to Justice Award¹¹ is presented to an individual who has meaningfully advanced access to justice for all in Michigan. The awards not only honor individuals but showcase recipients' achievements in support of the Foundation's mission.

This article began by referencing the visionary and dedicated trustees, staff, and partners who have made the Foundation possible and facilitated its ability to make a difference in our justice system and for the individuals its grantees serve. It must end with the same thought and hope for the future. Glenn Gillespie was correct in believing that a foundation could facilitate law-related charitable work in the public interest; 70 years of Foundation history have proved it can continue to do so well into the future with the continuing commitment of its visionary and dedicated trustees, staff, and partners.

For more information about the Michigan State Bar Foundation, see msbf.org. To make a tax deductible contribution to the Access to Justice Fund, please visit atjfund.org. ■



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ENDNOTES

1. Some of the stated purposes included the advancement of the science of jurisprudence, promotion of improvements in the administration of justice and uniformity of standards, and preservation of the American constitutional form of government.
2. Michigan State Bar Foundation <<http://www.msbf.org/>>. All websites cited in this article were accessed July 15, 2017.
3. Research projects funded by the Foundation in the 1960s included such topics as the effect of the Uniform Commercial Code on existing law, improving the conveyancing of real estate, and the Uniform Jury Instruction Project. In the 1970s, projects supported internships for pre-law students at the Attorney Grievance Commission and even (through MSU) the United States Supreme Court.
4. Michigan Legal Help Program <www.michiganlegalhelp.org>. The Michigan Supreme Court, the Michigan State Bar Foundation, Legal Services Corporation, the Michigan Poverty Law Program, and the State Bar of Michigan continue to support this innovative project, which reaches 25,000 people a week.
5. National groups include the National Association of IOLTA Programs, National Legal Aid and Defender Association, Legal Services Corporation, National Conference of Bar Foundations, and the Management Information Exchange. State-level involvement includes the Michigan State Planning Body for Legal Services, the Council of Michigan Foundations, regional Associations of Fundraising Executives, special State Bar efforts like the Judicial Crossroads Task Force and the 21st Century Practice Task Force, as well as numerous ad hoc groups to address emerging issues.
6. MCLA 600.1485.
7. The State Bar's Voluntary Pro Bono Standard calls on each lawyer to annually provide 30 hours of free representation, handle three cases free for low-income persons, or donate \$300 for a nonprofit civil legal aid program (\$500 for lawyers whose income allows a higher contribution).
8. State Bar of Michigan, *Documenting the Justice Gap in Michigan* (Spring 2017 update), p 2 <<https://www.michbar.org/file/programs/atj/pdfs/JusticeGap.pdf>>.
9. IOLTA Administrative Order No. 1997-9.
10. Past recipients of the Founders Award include George Googasian, Jon Muth, Hon. Harold Hood, Hon. Hilda Gage, John W. Cumiskey, Hon. Avern L. Cohn, Patrick J. Bruetsch, Kimberly M. Cahill, Hon. Julian A. Cook Jr., Charles R. Rutherford, Wallace D. Riley, and Dennis W. Archer.
11. Past recipients of the Access to Justice Award include Marilyn Mullane, Michael C. Chielens, Holli J. Wallace, Hon. Chad C. Schmucker, Candace Crowley, and Robert F. Gillett.