

**DISCUSSION DRAFT**

**COMPREHENSIVE, INTEGRATED STATEWIDE  
SYSTEM FOR THE PROVISION OF CIVIL LEGAL  
ASSISTANCE  
TO LOW INCOME PERSONS  
TO SECURE EQUAL JUSTICE FOR ALL**

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**PREPARED BY THE**

**PROJECT FOR THE FUTURE OF EQUAL JUSTICE**

**JOINT PROJECT OF THE  
CENTER FOR LAW AND SOCIAL POLICY  
AND THE  
NATIONAL LEGAL AID AND DEFENDER ASSOCIATION**

**CENTER FOR LAW AND SOCIAL POLICY  
1616 P. Street, NW  
Suite 150  
Washington, D.C. 20036  
(202) 328-5140**

**NATIONAL LEGAL AID AND DEFENDER ASSOCIATION  
1625 K. Street, NW  
8<sup>th</sup> Floor  
Washington, D.C. 20006  
(202) 452-0620**

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# DISCUSSION DRAFT

## COMPREHENSIVE, INTEGRATED STATEWIDE SYSTEM FOR THE PROVISION OF CIVIL LEGAL ASSISTANCE TO LOW INCOME PERSONS TO SECURE EQUAL JUSTICE FOR ALL

### INTRODUCTION

The Project for the Future of Equal Justice has prepared an outline of a comprehensive, integrated statewide system for the provision of civil legal assistance. This Discussion Draft is designed to prompt discussion and to provide the statewide planning processes with a framework to evaluate the objectives and capacities of such a system.

These ideas are preliminary. They have evolved from the work of the Project over the last year and are informed by what has seemed to work best in states that are on the road to achieving comprehensive and integrated statewide systems. As Project staff provide technical assistance to state planning efforts and undertake intensive work in a few states and hear from many others, we will learn more about how state leaders can best move forward to implement an effective system.

We are indebted to much prior work that has been done by members of the civil legal assistance community. We borrowed extensively from the recent work done in New Jersey, Michigan, Washington and Massachusetts to develop *Hallmarks*,<sup>1</sup> *Core capacities*,<sup>2</sup> *Characteristics*<sup>3</sup> and *Evaluation standards*.<sup>4</sup> In addition, our efforts were informed by: (1) the Policy Report issued by the American Bar Association on the Implications of the Comprehensive Legal Need Study - ***Agenda for Access: The American People and Civil Justice***; (2) the 1994 Study of Support undertaken by the Delivery Working Group, a joint initiative of the National Legal Aid and Defender

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<sup>1</sup>The Washington State Access to Justice Board developed ***Hallmarks of an Effective Statewide Civil Legal Services Delivery System***; Legal Services of New Jersey developed ***Characteristics of an Integrated Statewide Delivery System***; the State Bar of Michigan Access to Justice Task Force Service Delivery Subcommittee developed ***DRAFT: Core Capacities of an Effective Statewide System for Delivery Civil Legal Services to Low Income Clients in Michigan***; Massachusetts Legal Assistance Corporation developed ***Criteria for Evaluating Proposed Delivery System Structures***.

Association (NLADA) and the Project Advisory Group (PAG); (3) the **Suggested Standards for State Civil Legal Services Systems** attached to the Standing Committee on Legal Aid and Indigent Defendants (SCLAID) Plan for 1998 and beyond<sup>2</sup>; (4) the learning from the State Planning Assistance Network, a partnership of the American Bar Association (ABA) and NLADA, whose goal is a comprehensive civil legal services delivery system in each state; (5) Legal Services Corporation (LSC) Performance Measures developed in the early 1990s; and (6) the 1978-1981 LSC Study on special access barriers and special legal needs of veterans, Native Americans, migrant farmworkers, immigrants, rural residents, the elderly and persons with disabilities.<sup>3</sup>

We start from the fundamental premise: **Each state should create and maintain a comprehensive and integrated system for the provision of civil legal assistance to all low income persons with legal needs to secure equal justice for all.**

To accomplish this far-reaching goal will require leadership and commitment. Therefore:

**All civil legal assistance leaders within the state will have to take responsibility for and provide leadership to ensure effective civil legal assistance throughout the entire state.**

This fundamental professional and personal commitment is necessary if a state is going to develop the critical capacities of a statewide system. For attorneys, such a commitment is grounded in the special responsibility of each lawyer for the quality of justice in our society.<sup>4</sup>

We recognize that the idea that legal services providers and local bar leaders have responsibility for the provision of civil legal assistance throughout an entire state is a

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<sup>2</sup>SCLAID is the standing committee of the American Bar Association that has oversight over civil legal assistance. It recently adopted a plan to guide the activities of the Committee for 1998 and beyond. Although they were not adopted as part of the SCLAID plan, John Arango, a consultant to SCLAID, had drafted these **Suggested Standards** as an appendix to the proposed plan.

<sup>3</sup>The LSC Study identified 15 access barriers that confronted various of the seven groups studied and recommended a number of steps to overcome these barriers.

<sup>4</sup>As the Preamble to the Model Rules of Professional Conduct emphasizes, each lawyer, as a public citizen, should seek improvement in the administration of justice and the quality of services rendered by the legal profession and be mindful of deficiencies in the administration of justice and of the fact that the poor... cannot afford adequate legal assistance.®

relatively new concept. Because LSC historically funded programs to provide services only within specific service areas, unless the service area was the entire state, the primary focus of LSC-funded providers was perceived to be to provide effective and economical assistance only within its service area. Similarly, many local legal aid programs not funded by LSC, as well as many pro bono and other providers, have focused primarily on their own service areas or specific client base. Neither LSC nor state funders have required that local needs and capacities be addressed within a larger state-based civil legal assistance system.

However, a local focus was never the only emphasis of the national legal services system. From the very beginning of legal services, there were efforts to add a statewide focus to legal assistance efforts, primarily through funding statewide programs and state support centers and through encouraging coordinated state support activities. In addition, when new funding for civil legal assistance began to be provided by IOLTA and other state funding initiatives during the 1980s and 1990s, significantly more attention began to be focused on the state system of delivery. As state funders began to examine the state delivery system, many recognized that the civil legal assistance system cannot justify or accept the reality that clients in one part of a state may receive less access or less effective legal assistance than is available to clients in other parts of a state.

Over the last three years, LSC, the ABA, NLADA and CLASP have increasingly focused on promoting an integrated, comprehensive statewide civil legal assistance system. State planning has become a critical activity for each state. In part, this state planning emphasis was motivated by the reduction in LSC funding and the imposition of the new LSC restrictions, including the new restriction on the use of non-LSC funds. In part, it was motivated by the changes in laws resulting from devolution. But just as important, key leaders in the civil justice system recognized that if we want to expand the availability of civil legal assistance in the future, state civil legal assistance leaders must seek to increase and appropriately allocate resources derived from within a state, including private and public funding, and to seek additional resources from other federal funding sources and from regional and national foundations.

To be effective and efficient, that system must formally include a broad range of individual and institutional providers working collaboratively as a community of advocates. This new emphasis on creating a community of advocates will require involving traditional legal services programs, law schools, private attorneys, human services providers, nonlawyers and numerous others who are engaged in providing legal information as well as legal advice and representation.

We want to emphasize that providing leadership on developing an effective state-based civil legal assistance system does not mean that there should be a single statewide program, nor does it imply that existing programs will not have specific responsibilities within local or regional service areas or for particular populations of low income persons

(e.g., Native Americans, migrant farmworkers, institutionalized people). What **is** required is that program leaders and others become involved in planning and making appropriate decisions about how legal assistance may best be provided throughout the entire state and take responsibility for ensuring that poor people in all parts of the state have access to high quality legal assistance.

It is, however, essential that every state planning process now and in the future consider and reconsider whether the number and role of particular providers maximizes the state system's ability to respond to the most critical statewide legal needs, ensures reasonably equal access to civil justice, avoids duplication of capacities and administration, and deploys resources available within the state according to the highest and best use necessary for a comprehensive, integrated statewide civil legal assistance system.

In addition, the efforts which we, LSC and the ABA are making to promote comprehensive, integrated statewide systems are not intended to de-emphasize the critical importance of local involvement, participation and design. Providers must be able to respond to local needs, fashion local solutions, and retain local options on how to allocate resources and staff to address the legal needs of low income persons residing in local areas most effectively. There also must be local investment in the civil justice system. For the civil legal assistance system of the future to work, it must achieve a balance between extensive local investment and responsiveness and statewide coordination and responsibility.

Moreover, we believe and will continue to advocate for a federal responsibility for achieving equal justice for all and for an increased federal financial commitment. Equal justice for all is and must remain a federal responsibility, and the Legal Services Corporation must continue to be funded. Elimination of the Legal Services Corporation would destroy the system through which low income persons currently have access to civil justice. Abandoning a federal commitment to civil legal assistance would mean that in many states - and thus in the nation as a whole - the principle of equal access to justice would be a fiction.

Part One of this Discussion Draft provides a statement of overall objectives of a civil legal assistance system from the point of view of the low income users of the system. As we know, some potential users recognize that they could benefit from legal assistance and they want to use the judicial or administrative system for help. These users need to know where and how they can get effective, high quality legal assistance. Some potential users do not recognize that could benefit from legal assistance but might seek help if they recognized that the situation could be addressed in that manner. This group needs information and education and may require outreach activities. Some potential users may - either before or after outreach and education - realize that they could benefit from legal assistance, but for whatever reason, choose to do nothing, solve the problem themselves,

seek out assistance from a non-legal third party, or access the judicial system pro se. These users need to know their options and perhaps receive support for self-help or other assistance short of legal representation.

Part Two of the Discussion Draft sets out the capacities that a comprehensive, integrated statewide civil legal assistance system must have to achieve system objectives from the user perspective. The proposed capacities outlined in the Discussion Draft are aspirational. We recognize that there are significant differences in existing or potential capacities among the various states and that planning initiatives vary widely. No state has yet developed all of the necessary capacities and there is no expectation that they can do so without new resources, significant changes in the way legal services are delivered, and the involvement and commitment of staff legal services providers, pro bono providers, private attorneys and law firms, the organized bar, the judiciary, client based organizations and key interests from the community at large.

Currently, some states are moving toward a comprehensive, integrated statewide civil legal assistance system because they have developed significant non-LSC resources, made changes in the way legal services are delivered to address the legal problems of low income persons and achieved the widespread involvement of key stakeholders. Other states have a much further distance to go. We hope this draft document can be used by all states as they progress forward, regardless of the starting point.

Part Three of the Discussion Draft provides some ideas about how civil legal assistance leaders and stakeholders within states can plan for the future and sets out some principles for effectively managing an integrated statewide system.

## **I. OVERALL OBJECTIVES OF A STATE CIVIL LEGAL ASSISTANCE SYSTEM TO SECURE EQUAL JUSTICE FOR ALL**

**The fundamental purpose of a state<sup>5</sup> civil legal assistance system is to enable low income persons<sup>6</sup> to address their legal needs effectively.<sup>7</sup> To**

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<sup>5</sup> AState@ includes the District of Columbia, Puerto Rico, the US Virgin Islands and the various entities in Micronesia.

<sup>6</sup> For the purpose of this paper, A low income persons@ will include both individuals and groups and incorporate all constituencies of the low income population. We deliberately used the term A low income persons@ to include all persons unable to afford adequate legal assistance, and not to limit the system only to those persons who are determined to be poor under some poverty standard.

<sup>7</sup> The term A legal needs@ refers to situations that low income persons face that raise legal

**achieve this fundamental purpose, the system must meet the following objectives:**

**A. EDUCATE AND INFORM LOW INCOME PERSONS OF THEIR LEGAL RIGHTS AND RESPONSIBILITIES**

Many low income persons do not recognize that they are in a situation that could be improved with legal assistance. The civil legal assistance system should educate and inform low income persons within a state to enable them to:

1. recognize their legal rights and responsibilities<sup>8</sup> and unmet legal needs;
2. address their legal needs effectively;
3. take action to prevent legal problems from arising;
4. promote their legal interests.<sup>9</sup>

**B. INFORM LOW INCOME PERSONS ABOUT THE OPTIONS AND SERVICES AVAILABLE TO SOLVE THEIR LEGAL PROBLEMS, PROTECT THEIR LEGAL RIGHTS AND PROMOTE THEIR LEGAL INTERESTS.**

Even when low income persons recognize that they have a legal need and are aware of their legal rights and responsibilities, many will not be aware of all possible methods for addressing their legal needs.

Some options involve preventive steps, self-help and collective actions that do not involve the formal use of the civil justice system. Other options involve

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issues and for which legal information, advice, representation and assistance would be helpful. The term *unmet legal needs* is defined to mean legal needs for which low income people did nothing or were dissatisfied with the outcome of their own efforts or those of non-legal third parties.

<sup>8</sup> The phrase *legal rights and responsibilities* is taken from the Legal Services Corporation Act as amended. *Legal rights* will be used in this paper to mean the rights accorded to low income persons through statutes, regulations, constitutions and judicial decisions. *Responsibilities* will mean obligations imposed on low income persons by statutes, regulations, constitutions and judicial decisions.

<sup>9</sup> *Legal interests* is used in this paper to mean procedural and substantive protections, rights or entitlements that are not recognized as legal rights by statutes, regulations, constitutions or judicial decisions.

using alternative dispute resolution, negotiation and the judicial and administrative adjudicatory systems. Still other options include community economic development, other transactional assistance and representation before administrative agencies and legislative bodies.

Low income persons need to be aware of the range of options available and the pros and cons of exercising particular options so that they can choose the option that best meets their needs.

Low income persons also need to know about all available legal assistance providers and how to access or make use of those providers.

**C. ENSURE THAT ALL LOW INCOME PERSONS HAVE MEANINGFUL ACCESS TO A FULL RANGE OF HIGH QUALITY LEGAL ASSISTANCE PROGRAMS WHEN THEY HAVE CHOSEN OPTIONS THAT REQUIRE LEGAL ADVICE AND ASSISTANCE.**

1. Low income persons should have access to all legitimate legal tools, including a full range of high quality legal assistance, so that they can:
  - a. anticipate and prevent legal needs from arising;
  - b. solve their legal problems;
  - c. protect their legal rights;
  - d. promote their legal interests;
  - e. oppose laws, regulations, policies and practices that operate unfairly against them;
  - f. enforce and reform laws before legal problems arise; and
  - g. improve their opportunities and quality of life.
2. In addition, access is essential for individuals and groups who are politically or socially disfavored, as well as for all constituencies with distinct and disproportionately experienced legal needs, such as Native Americans; migrant farm workers; prisoners; persons residing in institutions; immigrants; seniors; and persons with mental and physical disabilities. No individual or constituency group should be left out of the system just because others perceive those individuals or groups as undeserving.
3. The system also must seek to eliminate barriers to access due to geographic isolation, language, disability, age, race, ethnicity and culture, inability to communicate, or inaccessibility of provider facility.

## **II. CAPACITIES OF A COMPREHENSIVE, INTEGRATED STATEWIDE CIVIL LEGAL ASSISTANCE SYSTEM TO SECURE EQUAL JUSTICE FOR ALL**

### **A. INCREASE AWARENESS OF RIGHTS, OPTIONS AND SERVICES**

1. Coordinated, systematic and comprehensive outreach targeted to all segments of the low income population within the state, including hard-to-reach groups, that provides information about legal rights and responsibilities as well as the options and services available.
2. Coordinated, systematic and comprehensive community legal education targeted at critical legal issues and provided through oral presentations, training programs, written, audio, audio-visual, and electronic materials delivered in a variety of community settings:
  - a. Education and information for low income populations, including particular constituencies with distinct, unique or disproportionately experienced legal needs as well as hard to reach groups;
  - b. Education and information that is culturally relevant to the various low income population groups within the state;
  - c. Special community education initiatives that address specific urgent, new or emerging issues;
  - d. Education for staff of community based organizations, human services providers, community leaders and others involved in providing legal and other services to train them:
    - (1) about critical legal issues, including new and emerging issues, facing low income persons;
    - (2) about the services available from legal providers in order to make appropriate and accurate referrals.
3. Education for the general public about the legal problems of low income persons and the services available to address them.

### **B. FACILITATE AND ENHANCE ACCESS TO LEGAL ASSISTANCE**

1. Coordinated system of service delivery using all individual and institutional providers to:
  - a. ensure that services are accessible from all parts of the state, including remote rural areas and low income urban neighborhoods;

- b. identify and allocate resources and make available specialized expertise in all major substantive areas of the law affecting low income persons in order to provide an appropriate service for every major legal problem and address the highest priority legal needs of low income persons within the state;
  - c. provide legal information and assistance in all of the languages spoken by a significant number of low income persons;
  - d. serve all segments of low income and vulnerable households, including those constituencies with distinct, unique or disproportionately experienced legal needs.
- 2. Centralized or coordinated advice and brief services system organized throughout the state to enable low income persons who believe they have a legal problem to speak by telephone or in person to a skilled attorney or paralegal for accurate legal advice and brief services to help resolve that problem.
- 3. Accessible, flexible, responsive intake systems which are centralized or coordinated and which include telephone screening, case evaluation and referral system(s) to:
  - a. diagnose legal problems and identify legal interests;
  - b. make referral to the system of legal providers;
  - c. make referral to alternative dispute resolution (ADR) providers or community based organizations;
  - d. make referral to other appropriate non-legal organizations.
- 4. Supplementary client intake and screening systems that target particular low income constituencies, persons having particular legal problems that need immediate attention, persons unable to navigate a telephonic intake system, and persons who come to the office in person.
- 5. Maximum use of new and innovative electronic and video technologies to improve access and address unique and distinct unmet legal problems.

**C. PROVIDE A FULL RANGE OF CIVIL LEGAL ASSISTANCE SERVICES TO ALL IN NEED**

The civil legal assistance delivery system should systematically ensure the collective capacity to provide a full range of civil legal assistance services to all clients regardless of their location or the forum within which their legal

problem is best resolved. For example, the system should enable low income persons and groups to address some legal problems without legal representation, receive advice and brief services in appropriate situations, and receive representation from an attorney or paralegal when necessary. In addition, the system should provide representation when the legal issues affect a substantial number of poor people. Services that must be available include:

1. Legal advice and referral;
2. Brief legal services;
3. Representation in negotiation;
4. Transactional assistance (including community economic development, job creation, housing development, and the like);
5. Representation in the judicial system and in administrative adjudicatory processes using all forms of representation appropriate for the individual or group being represented;
6. Representation before state and local legislative, administrative and other governmental or private bodies that make law or policies affecting legal rights and responsibilities to make sure that low income persons are at the table when decisions affecting them are made (state level representation is essential because states make critical decisions that affect the legal rights and responsibilities of low income persons);
7. Assistance to clients using mediation and dispute resolution programs, including community based dispute resolution services (where they exist), and development of linkages with such programs;
8. Assistance to individuals representing themselves pro se, including:
  - a. clinics and on-site activity by law students, provider staff, volunteers, private attorneys, court personnel, or others who will help low income persons:
    - (1) identify legal problems;
    - (2) analyze claims and defenses;
    - (3) prepare forms and pleadings;
    - (4) understand the processes, procedures and rules of the court;

- (5) locate appropriate legal assistance providers and/or private or pro bono attorneys;
  - b. advocacy to change court procedures and practices to enable more efficient and effective self-representation;
  - c. advocacy to encourage use and availability of new technologies to increase access of low income persons to the court system.
- 9. Advocacy to help make the legal system more approachable, receptive and responsive to low income persons, including those with special needs.

**D. ENSURE HIGH QUALITY, COORDINATED, EFFICIENT AND EFFECTIVE CIVIL LEGAL ASSISTANCE**

- 1. Assistance is available from a community of advocates, such as:
  - a. Staff lawyers, paralegals, and other employees of non-profit legal services provider programs;
  - b. Private lawyers working pro bono or for compensation;
  - c. Law students and law teachers;
  - d. Lawyers, paralegals or staff working for other entities (including governmental entities such as attorney general offices, corporations, labor unions, civil rights and civil liberties organizations, human services providers and other non-profit institutions);
  - e. Lay advocates associated with community organizations and other nonlawyers;
  - f. Clerks, law librarians and other court personnel.
- 2. Providers will include:
  - a. Non-profit legal services provider programs;
  - b. Law firms, corporations and other for-profit entities;
  - c. Law schools and law school clinics;
  - d. Low income advocacy organizations and groups;
  - e. Non-profit human services, ecumenical and community based institutions;
  - f. Governmental or quasi-governmental institutions.
- 3. Providers have the substantive expertise, institutional presence, and experience necessary to provide high quality legal assistance

consistent with the standards of practice within the state and with national standards of provider performance.

4. Legal providers have the capacity and flexibility to identify and respond effectively and efficiently to new and emerging legal trends and changes in the nature of the legal problems of low income persons.
  - a. Substantive strategies and appropriate techniques of advocacy can respond to changing client legal needs.
  - b. Providers have the flexibility to reconfigure their structures, integrate their activities, and reallocate their resources to carry out new strategies necessary to respond to changing client legal needs.
  - c. Sufficient support exists within the system to identify and respond to emerging legal trends and changes in the nature of the legal problems of low income persons through training, availability of specialized expertise, and other resources.
  
5. Providers throughout the state work together in a coordinated and collaborative manner to ensure a full range of legal assistance options to all low income persons in all civil justice forums.
  - a. Providers who are restricted in the services that they can provide work with providers who are not restricted in order to ensure the availability of the full range of legal services to all low income persons.
  - b. Providers work collaboratively with one another and the broader community to use and integrate all individuals and organizations providing civil legal assistance to low income persons.
  - c. Providers throughout the state coordinate their activities to make the highest and best use of all available resources; minimize duplication of capacities and administration; develop and maintain coordinated and accessible client intake, advice and brief services and referral systems; and maintain organizational relationships and structures that maximize economies of scale and ensure the effective use of existing and emerging technologies.

- d. Providers coordinate to ensure that legal assistance is available when needed and to respond quickly to client emergencies including those created by natural disasters or by significant changes in the law.
  - e. Providers promote effective use of technology to facilitate coordination.
6. Legal providers coordinate and collaborate with human services providers, community based organizations, low income groups and other entities to deliver holistic and interdisciplinary services and to enable non-legal services providers to provide their clients with accurate and relevant information about legal rights and options and how to access the system.
7. Legal providers take full advantage of existing and innovative technologies and maximize the use of technology to deliver high quality legal assistance.
- a. Providers invest in technology for acquisition of hardware and software on an ongoing basis;
  - b. Staff have access to and adequate training for use of up-to-date technological tools to access information, communicate with colleagues, courts and clients, and work productively;
  - c. Intake and brief advice and assistance systems use the most efficient technologies, consistent with client autonomy, dignity and special requirements;
  - d. Program offices are internally linked and linked to other providers making full use of internet and web-based technologies, such as secure e-mail and private forums, to enhance communication, coordination, collaboration and efficient transfer of client information and knowledge among providers;
  - e. Advocates have access to information, legal research, support and resources outside of their offices;
  - f. Providers use internet, telephone and other technologies to educate clients about their rights, help them find an appropriate advocate, or proceed pro se.
8. Providers employ or participate in regular recruiting efforts and ongoing professional staff development to ensure that new leadership

is developed and nurtured and that managers and staff improve their skills and capacities to carry out their responsibilities.

9. Providers are sensitive to the values, cultures and aspirations of low income households in the state.
  - a. Advocates and others involved in the civil justice system can work and communicate effectively with the various constituencies of low income persons within the state;
  - b. When there are a large number of low income households that speak a language other than English, providers collectively must ensure that there are advocates who can speak the language of the clients;
  - c. A diverse group of advocates is used to provide civil legal assistance within the state.
  
10. Legal assistance is provided in ways that enable, support and enhance the ability of low income individuals and groups to define, assert, promote and enforce the legal rights and interests within the state=s civil justice system.
  - a. Support and assistance is provided to persons capable of engaging in self-representation or self-help activities;
  - b. Delivery strategies that maximize the potential for meaningful client participation in their own representation are employed, such as self-help programs, advice programs, assistance to persons proceeding pro se, alternative dispute resolution programs and community legal education;
  - c. Clients are offered a range of representation services.
  
11. Legal assistance is provided to ensure that the rights and interests of low income persons are taken into account by courts, administrative agencies, legislative bodies and other private and public institutions that make decisions affecting such persons.

**E. ENSURE STATEWIDE COORDINATION AND SUPPORT FOR PROVIDERS OF CIVIL LEGAL ASSISTANCE**

1. Statewide coordination of state-level resource development, including:
  - a. Unified private and capital campaigns, where most effective;
  - b. Unified approaches to major potential state public sources;

- c. Unified liaison with and maintenance of existing statewide sources;
  - d. Coordinated technical assistance for targeted local funding efforts;
  - e. Coordinated efforts to develop local and regional funding sources;
  - f. Coordinated communication, public relations, media and branding activities.<sup>10</sup>
2. Effective monitoring, analysis and timely distribution of information regarding all relevant legal developments to all individual and institutional providers and others participating in the statewide system;
  3. Regular statewide meetings of, or communications among, attorneys, paralegals and lay advocates (including private attorneys and law firms, attorneys working for governmental entities, corporations, labor unions and human services providers) to discuss common issues, problems, subject areas, client constituencies, techniques of advocacy and strategies to make the most effective and efficient use of resources;
  4. Identification and promotion of systemic "best practices" in areas such as intake, needs assessment, priority setting, case management, techniques of advocacy and strategy development;
  5. System to coordinate advocacy in all state level legal forums on matters of consequence to low income people, including amicus work;
  6. Efficient state-of-the-art statewide information dissemination network including:
    - a. Statewide e-mail access for institutional providers of civil legal assistance, such as legal services programs, pro bono programs, law school clinical and related programs, specialized legal advocacy programs and staff working in community based organizations;

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<sup>10</sup> ABranding activities@refers to deliberate use of distinctive logos and symbols to build public awareness of the civil legal assistance system within the state.

- b. Statewide civil legal assistance web site and other methods of communication to provide up-to-date information about state legislative, regulatory and policy developments affecting low income persons as well as other information relevant to the delivery of civil legal assistance;
  - c. Statewide electronic library of briefs, forms, best practices and proprietary texts and client information materials, which are accessible by all institutional providers and private attorneys providing civil legal assistance;
  - d. Coordinated statewide research strategy integrating Internet usage, on-line services, proprietary sources, and other resources;
  - e. Coordinated data management systems to facilitate information sharing and case file transfers.
- 7. Coordinated statewide education and training activities available to all individual and institutional providers within the state to develop expertise in all major areas of legal services practice within a state, to update advocates on new developments and emerging trends in law and policy affecting low income persons, to ensure the use of new strategies, tools, skills and techniques of advocacy, to develop managers and new leaders, and to maximize opportunities for professional staff development for all experience levels of staff , including:
  - a. Training activities carried out both at the workplace and outside of the workplace for maximum efficiency and effectiveness;
  - b. Assistance to local providers to ensure development of appropriate local training and education activities and materials;
  - c. Coordination with continuing legal education programs offered by state or local bar associations or other entities;
  - d. Opportunities to participate in national and regional training and collaborations where relevant to civil legal assistance activities of the state.
- 8. Administrative coordination and support including:
  - a. Coordinated central purchasing whenever there are significant economies of scale to be realized (equipment, technological systems);

- b. Statewide norms and policies, such as staff performance standards and referral and conflict procedures;
  - c. Consolidated or coordinated statewide financial operations where appropriate and efficient.
- 9. Coordinated capacity to recruit and use private attorneys.
- 10. Coordinated statewide civil legal assistance liaison with all major institutions affecting or serving low income people in legal matters, including state, local and federal courts; administrative agencies; legislative bodies; alternative dispute resolution bodies; and other public or private entities providing legal information, advice or representation.
- 11. Coordinated statewide research on improving the delivery of civil legal assistance as well as research on relevant demographic trends and new and emerging legal problems.

## **F. Ensure Coordination Among States and Nationally**

1. Providers in the state work with providers in other states to ensure coordinated responses to common legal problems and to learn from the experiences of other states about improving the provision of civil legal assistance.
2. Providers in the state work with national entities and institutions involved in improving civil legal assistance to gain a national perspective on their work, take advantage of collected resources and participate in the national efforts to achieve equal justice for all.
3. Providers in the state work and coordinate with national entities and organizations to ensure that the interests and legal rights of low income persons are taken into account by national bodies involved in civil justice and dispute resolution as well as the Congress, federal agencies and executive departments.

## **III. SUGGESTED STEPS ON PLANNING AND OVERALL MANAGEMENT OF THE SYSTEM**

States must engage in ongoing planning and management processes to develop the capacities for a comprehensive, integrated statewide system for the provision of civil legal assistance. This Part sets out some ideas about how those in a state might approach planning and overall systems management.

We reiterate again that these ideas are preliminary ones based on our work over the last year and on what has seemed to work effectively in states that are on the road to achieving comprehensive and integrated statewide systems. As Project staff begin to provide technical assistance to state planning efforts and undertake intensive work in a few states, we will learn more about how state leaders can best move forward to implement an effective system. Our current thinking suggests the following framework:

## A. PLANNING

1. **Each state should engage in an ongoing process of planning to address in detail how it will achieve a comprehensive, integrated state system for the provision of civil legal assistance to low income persons.**
  - a. The ongoing planning process should determine the purpose for, and identify the components of, the state delivery system and provide for the integration of all of the components, providers and programs into a single, coordinated system.
  - b. The planning process should develop incentives for integration and innovation and ensure that the state delivery system capitalizes on opportunities to secure new sources of funding, provide new kinds of services, form new partnerships, and serve new groups of clients.
2. **The planning process should include, in a meaningful way, the key stakeholders, individual leaders, and institutional actors within the civil justice system and should not be dominated by any one cluster of participants.**
  - a. All stakeholders should be included from the outset.
  - b. Key personnel from all legal assistance and pro bono programs (LSC and non-LSC funded, including traditional legal providers that have not been included in system planning activities) should participate in the planning process. Although the process might be initiated by project directors, it will not be successful unless board members and staff also participate.
  - c. In addition, there is widespread recognition that representatives of low income persons within the state should also participate. Ensuring that such participation is meaningful will often require that those representatives be trained and assisted throughout the process.
  - d. Key stakeholders and institutional actors within the civil legal assistance system must play meaningful and effective roles throughout the planning and implementation process. A

process dominated, controlled or dictated by legal services project directors is likely to be limited in scope, perspective and potential effect. In our view, the planning process must involve the following:

- (1) Key judicial personnel, including:
  - (a) justices of the highest state court
  - (b) lower court state and federal judges
  - (c) court administrators and other relevant judicial personnel
  
- (2) Law school representatives, including:
  - (a) deans
  - (b) clinical faculty and students
  - (c) other interested faculty and students
  
- (3) Leaders of the organized bar at both the local and state level.
  
- (4) Private attorneys directly involved in civil legal assistance to low income persons, whether pro bono or compensated.
  
- (5) Other civil legal providers such as civil rights organizations, prepaid plans, or children's advocacy groups.
  
- (6) Members of the civic, educational and business communities.
  
- (7) Where appropriate, state or local funders.

We recognize that some key members of the above groups may not currently support civil legal assistance to the poor. Others may be quietly supportive but not initially willing to take a visible leadership role. In that case, the planners need to start by targeting individuals who are supportive, working with them to involve others when appropriate, and developing strategies to inform and expand community understanding of the role of civil justice and the broad basis of leadership that places high priority on ensuring equal justice for all.

3. **The planning process should consider the funding options within the state and from federal and other sources outside of the state to ensure that resources for the state system are diversified and should continually seek new and expanded funding from a variety of restricted and unrestricted sources.**
  - a. States vary widely in the funding that is available from non-LSC sources. Some states have not been able to generate significant non-LSC resources, and perhaps the most important step that those states can take is to develop significant non-LSC revenue sources. Other states have been able to generate and access significant non-LSC resources. Those states need to consider how to maintain, expand and strategically invest those resources and limit the restrictions imposed on those resources.
  - b. Local fundraising is essential and must continue. However, civil legal assistance leaders also have to consider broader state needs and work together to raise funds to meet them. Specifically, we suggest four objectives:
    - (1) Each state should have at least one major source of unrestricted funding, (i.e., a source of funding for civil representation of low income persons on any legal issue, in any forum, using any appropriate method of legal assistance).
    - (2) Each state should have, or should develop, a system that will attract funding from a variety of sources.
    - (3) Each state should make every effort to maintain and sustain existing local, state, and federal funding sources.
    - (4) Each state should develop and expand fundraising efforts targeted at new, untried, or underutilized funding sources.
4. **The planning process regularly and effectively identifies the most critical legal problems of low income and vulnerable persons to develop appropriate substantive strategies, allocate**

**resources effectively, and ensure that the community of advocates is configured to provide necessary legal assistance.**

- a. Ongoing strategic thinking and planning should involve all providers as well as board, management and staff members from those providers, and it should be conducted in consultation with representatives from identifiable constituencies of low income persons and other stakeholders and institutional actors.
- b. Statewide planning and assessment of legal needs should not replace local planning and priority setting. In fact, the statewide process should take into account results from local provider priority setting and planning and vice versa. However, there will be statewide high priority needs - which may not be recognized or given sufficient priority by local priority setting processes - that should be addressed in order to achieve a comprehensive, integrated statewide system of civil legal assistance.

**B. OVERALL MANAGEMENT OF THE SYSTEM**

1. The statewide civil legal assistance system is managed by a broadly representative entity (or entities) with overall responsibility to promote the creation and maintenance of the capacities of a comprehensive, integrated system. Specifically, this entity (or entities):
  - a. ensures continuous planning;
  - b. takes responsibility for achieving all of the objectives and capacities (laid out above) within a reasonable period of time;
  - c. recommends appropriate use of new funds.
2. State systems of civil legal assistance must not only plan and assess critical legal needs, but they must also integrate state and local decisions and make decisions about how to allocate resources and provide necessary services. :
  - a. Civil legal assistance resources are deployed in a manner that:
    - (1) maximizes the system=s ability to respond to the most critical statewide legal needs, including emerging

needs as well as the greatest local and regional legal needs;

- (2) addresses legal needs unique to or disproportionately experienced by specific segments of the low income population;
- (3) enables the use of advocacy strategies and techniques of advocacy that will result in the longest term benefits on issues of greatest significance to low income persons as identified in a legal needs assessment process.

- b. The system is designed and configured to ensure reasonably equal access to civil justice.
- c. The statewide delivery system strategically uses and integrates staff attorneys, private attorneys, specialized advocacy programs, private and nonprofit law firms, other professional disciplines, social services providers, law students, nonlawyers and low income groups and individuals to provide maximum and effective legal assistance throughout the state.
- d. The statewide civil legal assistance system avoids duplication of capacities and administration and deploys resources according to the highest and best use consistent with and responsive to priority legal problems of the state=s low income population.
- e. The state system establishes and continually revises and updates minimum standards for use of technology and acquisition of software and hardware.
- f. The statewide system collects appropriate data and evaluates provider activities to:
  - (1) Measure the system's effectiveness in achieving results for clients;
  - (2) Measure client satisfaction;

- (3) Measure and improve productivity and effectiveness of the various legal services providers;
  - (4) Informs the planning process regarding systemic issues affecting the provision of civil legal assistance within the state.
- g. The statewide civil legal assistance system is structured in a manner that builds public support and best protects the integrity of its essential capacities from external political and other pressures and intrusions.
- h. The statewide civil legal assistance system encourages innovation in delivery supported by appropriate and careful evaluation of the results.
- i. The statewide system develops new leadership.
- j. The statewide civil legal assistance system secures a high degree of involvement and commitment by private attorneys, law firms, the organized bar, the judiciary and other key stakeholders and interested persons from the community at large.