

Racial Justice: The Role of Civil Legal Assistance

By Alan W. Houseman

Racial discrimination and isolation underlie and exacerbate the legal, social, and economic problems that low-income people of color face. To address their legal problems, individual legal aid lawyers and paralegals have to employ both antidiscrimination statutes and community-based strategies; legal aid programs need to increase race-based advocacy, and the civil legal aid system as a whole has to focus on racial justice.¹ None of this will happen, however, absent a change in what legal aid programs do and a new focus on racial justice throughout the civil legal aid community.

I. Demographics and the Fundamental Story

While poverty remains a central problem of our society as a whole, it is particular-

ly acute for low-income people of color. According to 2000 poverty data from the Census Bureau, blacks and Hispanics together are three times as likely as whites to be poor (22 percent versus 7.5 percent).² Poverty affects children to a greater degree than any other age group. Today one-sixth of all children, and one-fifth of those under 6, are poor. Child poverty also reveals a stark racial gap; Hispanic and black children are twice as likely as white children to be poor. Immigrant families are particularly vulnerable. One-fourth of all children of immigrants live in poor families, compared with 16 percent of U.S.-born children.³

The six introductory articles in this issue of CLEARINGHOUSE REVIEW tell a story that is devastating in its impact. Blacks and Hispanics face a concentration of

¹ Race-based advocacy is advocacy that actively addresses both current and historical substantive barriers to equal access to opportunity and advancement of people of color. It includes both antidiscrimination work using the numerous civil rights statutes and advocacy that actively identifies and prioritizes the concerns of communities of color. For a longer discussion of what is meant by race-based advocacy, see Camille D. Holmes, Linda E. Perle & Alan W. Houseman, *Race-Based Advocacy: The Role and Responsibility of LSC Funded Programs*, in this issue.

² The only available national data on the ethnicity of clients are those for clients counted under Legal Services Corporation (LSC) rules by LSC-funded programs; those data show that in 2000 24.6 percent were black, 18.3 percent were Hispanic, 49.1 percent were White, 2.3 percent were Native American, 2.3 percent were Asian or Pacific Islander and 3.4 percent were "other." See LSC, *FACTBOOK 2000* 16 (2001). These figures do not correspond directly to overall census figures because the LSC eligibility standards are 125 percent of poverty.

³ See CTR. ON BUDGET & POLICY PRIORITIES, *POVERTY RATES FELL IN 2000 AS UNEMPLOYMENT REACHED 31-YEAR LOW* (2001); *id.*, *CHILD TRENDS, TRENDS AMONG HISPANIC CHILDREN, YOUTH AND FAMILIES* (2001).

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poverty in the urban centers of our country, isolation from critical goods and services in both urban and rural areas, and continuing relentless discrimination everywhere.

Housing: Substantial and continuing racial residential segregation creates extreme differences in housing between low-income people of color and others and isolates low-income people of color in neighborhoods that lack jobs, effective educational systems, decent health care, and essential transportation.

Health Care: Blacks have twice the infant mortality rates of whites, receive less primary care, are twice as likely to be uninsured, and are far less likely to have employment-based health coverage. When they do receive care, it is of lower quality than what whites receive.

Education: Blacks and Hispanics and other language minorities do not attend schools that are racially integrated. They receive an inferior education because they attend schools with a concentration of poor children of color; these schools lack adequate resources, have a disproportionate number of unqualified teachers, and fail to teach the critical-thinking skills necessary to succeed in our society.

Employment: People of color earn less than whites, their unemployment rates are higher, and they are underrepresented in entire occupations; moreover, jobs are often located outside of areas where they live.

Consumer: Low-income people of color “pay more for less.” They are charged higher prices for inferior products, subjected to credit discrimination and predatory lending, and experience unequal access to the marketplace and to refunds, exchanges, and warranties.

Welfare: Along with an increased concentration of people of color among recipients of Temporary Assistance for

Needy Families (TANF), there is strong evidence of racial discrimination in the administration of the welfare system, including evidence of disparate treatment in employment training, counseling by caseworkers, and provision of services. Researchers are beginning to document harsher sanctions and fewer extensions of time limits for TANF recipients of color.

These six critical legal aid areas tell only part of the story. As John Powell pointed out in a seminal 1993 article on race and poverty: “It is the convergence of a cluster of these and other problems, along with the concentration of large numbers of other poor minorities in spatially isolated areas in deteriorating cities, that creates a unique phenomenon which we are only beginning to examine.”⁴

II. The State of Racial Justice Advocacy

As we approach the concerns that this issue of the REVIEW raises, we must note that we lack a complete picture of what civil legal aid programs are doing today to address racial discrimination or to advance racial justice. Some programs are engaging in race-based advocacy.⁵ But there is at least a perception that the overall legal aid community is not raising as many race-based and discrimination-based claims as it could raise.⁶ While as a community we should evaluate the scope of our work, surely civil legal aid programs and the emerging state justice communities are not doing enough to achieve racial justice, and, therefore, both individual programs and state justice communities as a whole must explore and use all of the strategies that the civil rights and antipoverty legal communities have developed to address the racial discrimination against and isolation of low-income people of color.

As this issue of the REVIEW suggests, legal aid programs can pursue many effec-

⁴ John A. Powell, *Race and Poverty: A New Focus for Legal Services*, 27 CLEARINGHOUSE REV. 299 (Special Issue 1993).

⁵ See Holmes et al., *supra* note 1, for examples.

⁶ E.g., some advocates doing civil rights work believe that “legal services programs are bringing fewer and fewer affirmative challenges that incorporate race-based anti-discrimination claims.” Charles Elsesser & JoNel Newman, *Encouraging Race-Based Advocacy in Legal Services Practice*, in this issue.

tive race-based advocacy strategies. To cite only a few examples, when pursuing consumer law issues, advocates can make greater use of the credit discrimination provisions in the Equal Credit Opportunity Act.⁷ In housing, Title VIII disparate impact litigation can prevent the displacement of low-income people of color who are threatened with the destruction of public housing as well as be an effective tool to prevent foreclosure on homes that they own.⁸ Title VI disparate impact claims in employment litigation may be appropriate.⁹ Advocates can use the U.S. Department of Justice's guidance to federal agencies on serving people with limited English proficiency to pursue claims that language discrimination limits the services available to people of color whose first language is not English.¹⁰ Legal aid advocates can file discrimination complaints with agencies such as the Equal Employment Opportunity Commission, the U.S. Department of Housing and Urban Development, and the Offices for Civil Rights of the U.S. Department of Health and Human Services and the U.S. Department of Agriculture. Legal aid advocates can seek to ensure the adoption of education standards and assessments that, if implemented properly and effectively, offer hope that low-income students of color will be educated, notwithstanding the discriminatory nature of our educational system.¹¹ This issue of the REVIEW describes many more substantive strategies that the civil legal aid community can and should pursue.

A. Brief Look at the Past

The history of civil rights work within the civil legal aid community is extensive. German immigrants seeking help for their immigration and other problems founded the first legal aid society in 1886 in New York City. Throughout the period from 1886 until 1965, many civil legal aid programs worked on key issues involving racial discrimination, and many represented immigrants.¹² Even so, we must note what the legal aid movement did *not* do.

Partially because resources were far too limited to serve the population of eligible clients, legal aid generally gave perfunctory service to a high volume of clients. Going to court was rare. Appeals were nonexistent. Administrative representation, lobbying, and community legal education were not contemplated. Legal aid had little effect on those it served and no effect on the client population as a whole. Much of what we know today as “welfare law,” “housing law,” “consumer law,” “health law,” and the like did not exist.¹³

The federal legal services program began in the Office of Economic Opportunity (OEO) in 1965. It was a unique structure that built on the civil legal aid model and on demonstration projects that the Ford Foundation funded in the early 1960s in New Haven, New York, Boston, and Washington, D.C.¹⁴ These models, while different from one another, all explicitly included civil rights advocacy. Indeed, the New York model was based in part on that of the NAACP Legal Defense and Educational Fund.

⁷ Deanne Loonin, *Race Discrimination and Consumer Law: What legal Services Can Do to Attain Justice in the Marketplace*, in this issue.

⁸ Florence Wagman Roisman, *Housing, Poverty, and Racial Justice: How Civil Rights Laws Can Redress the Housing Problems of Poor People*, in this issue.

⁹ Sharon M. Dietrich & Noah Zatz, *A Practical Legal Services Approach to Addressing Racial Discrimination in Employment*, in this issue.

¹⁰ Henry A. Freedman, *The Welfare Advocate's Challenge: Fighting Historic Racism in the New Welfare System*, in this issue; Jane Perkins, *Race and Health*, in this issue.

¹¹ Kathleen Boundy, *Eliminating Race Discrimination in Education: Success and Future Challenges*, in this issue.

¹² JACK KATZ, *POOR PEOPLE'S LAWYERS IN TRANSITION* 34–38 (1982).

¹³ See Alan W. Houseman, *Political Lessons: Legal Services for the Poor: A Commentary*, 83 *GEO. L.J.* 1669, 1670–72 (1995).

¹⁴ See EARL JOHNSON JR., *JUSTICE AND REFORM: THE FORMATIVE YEARS OF THE AMERICAN LEGAL SERVICES PROGRAM* 21–32 (1974); JOHN A. DOOLEY & ALAN W. HOUSEMAN, *LEGAL SERVICES HISTORY* 2 (1985).

The architects of the new federal program recognized not only that civil legal assistance did not exist at all in many parts of the country but also that “something

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new,” beyond well-funded legal aid, was needed.¹⁵ Learning from the work that lawyers for the civil rights and civil liberties movements were doing, they also understood that the law could be an instrument for orderly and constructive social change. Clinton Bamberger, the first director of the Office of Legal Services within OEO, described legal services as designed to marshal “the forces of law and the powers of lawyers in the War on Poverty to defeat the causes and effects of poverty.”¹⁶ In effect, the architects of the Office of Legal Services assumed that, by addressing the problems of poverty, the legal services program would also address the problem of racial inequality.

OEO modeled the structure of its legal services program on civil rights organiza-

tions as well as on the existing legal aid system. Unlike other legal aid systems in the developed world, the U.S. system utilized staff attorneys working for nonprofit entities, not private attorneys participating in *judicare* programs.¹⁷ OEO also funded full-service providers, each serving one geographic area; these providers were obligated to ensure that all clients and client groups had access to the legal system. Despite pressure to create separate funding streams for certain groups of the poor, such as the elderly, OEO earmarked national funds and created separate funding and a somewhat separate delivery system only for Native Americans and migrant farmworkers. OEO also developed an infrastructure that is unique in the world and that, through national and state support, training programs, and a national clearinghouse, provided leadership and support on substantive poverty law issues and undertook litigation and representation before state and federal legislative and administrative bodies.¹⁸ It modeled these national support entities on the NAACP Legal Defense Fund.

Although the Legal Services Corporation (LSC) Act refocused the purpose of the program from addressing poverty to achieving equal access to justice, when LSC began to function in 1975 it carried over the OEO delivery and support struc-

¹⁵ The notion of “something new” came from Attorney General Nicholas deB. Katzenbach’s speech at the 1964 Conference on the Extension of Legal Services to the Poor: “[The problems of the poor] ... are not new problems. It is our appreciation of them that is new. There has been long and devoted service to the legal problems of the poor by legal aid societies and public defenders in many cities. But, without disrespect to this important work, we cannot translate our new concern into successful action simply by providing more of the same. There must be new techniques, new services, and new forms of inter-professional cooperation to match our new interest.” U.S. DEP’T OF HEALTH, EDUC. & WELFARE, CONFERENCE PROCEEDINGS—THE EXTENSION OF LEGAL SERVICES TO THE POOR 11 (1964).

¹⁶ Johnson, *supra* note 14, at 75.

¹⁷ Later, pursuant to the findings of the Delivery System Study completed in 1980, LSC encouraged the development of pro bono programs and subsequently required programs to use the equivalent of 12.5 percent of their LSC funding for private attorney involvement, most of which went to increase pro bono efforts. See 45 C.F.R. § 164. Today over 150,000 private attorneys are registered to participate in pro bono efforts with LSC-funded programs.

¹⁸ Many of these national support centers focused on race-based advocacy. E.g., the National Employment Law Project, the Center for Law and Education, the National Housing Law Project, and the National Health Law Program were all directly involved in major cases challenging racial discrimination. The Welfare Law Center addressed racial discrimination in public benefits. Other centers, such as the Migrant Legal Action Program and the Native American Rights Fund, specifically focused on clients who were racial minorities. The National Immigration Law Center focused on the range of issues affecting immigrants.

ture fundamentally unchanged. LSC did, however, expand the program from its primarily urban base to one covering every county in the United States and its territories. Thus LSC kept in place the structural elements of the national program that, as the introductory articles in this issue show, insured a continued focus on affirmative systemic advocacy that addressed race discrimination in housing, education, health care, employment, welfare, consumer, and other areas of legal services work.

B. State Justice Communities

The past structure and advocacy framework of the civil legal aid program no longer exists, as the program is undergoing a major transformation. Although staff attorneys and paralegals may not be able to affect this transition directly, familiarity with its basic direction will contribute to a better understanding of what needs to be done to increase race-based advocacy in the civil legal aid community. No longer does the civil legal aid structure consist primarily of one full-service provider addressing all of the legal problems of low-income residents in a geographic area. Today, in sixteen states, two newly organized direct service providers each operate statewide, and two direct service providers both serve over twenty large- or medium-size cities. This evolution is unlikely to abate in the near future. The number of LSC-funded providers has decreased from over 325 in 1995 to 176 at the beginning of 2002; the number will soon decline to 170. The number of local program grantees has gone from 292 to 172 and soon will go down to 164.

In addition to changes in the basic LSC delivery system, the network of federally funded entities that linked all of the LSC-funded providers into a single national legal services program has been substantially reduced, and some components have been dismantled.¹⁹ At the state level these have been replaced by a separate group of

non-LSC-funded entities engaged in state advocacy in over thirty-five states.²⁰

As a result of the restrictions on and the reduction in LSC-funded programs and the development of new programs, a new delivery system is emerging in many states. The system includes both programs that receive funds from LSC and are restricted in their activities and programs whose funding is from other sources. The non-LSC-funded providers are free to engage in class actions, represent clients before legislatures and administrative bodies, and represent noncitizens, so long as their funding sources permit them to use resources for those activities.

Most every state is developing a state justice community—a comprehensive, integrated statewide system of delivery that seeks to establish a single point of entry for all clients and integrate all institutional and individual service providers and partners to ensure that all low-income persons have access to representation in all forums. State-level funding has become a new and significant resource for civil legal assistance. No longer is the system a national one primarily funded by LSC. Instead the new state justice communities are state-based, with funding coming from state government, the private bar, Interest on Lawyers Trust Account programs, state and local private foundations, and other federal sources, as well as LSC. Thus whether racial justice takes on more importance within the civil legal assistance system will depend as much on developments at the state level as on those at the local and national levels.

III. Where We Go from Here

To increase racial justice advocacy and be effective in helping low-income persons of color address racial discrimination and isolation, individual lawyers and paralegals will have to increase their use of antidiscrimination and community racial justice strategies, and the civil legal

¹⁹ This network consisted of state and national support centers, a national clearinghouse and poverty law journal, and training programs.

²⁰ See ALAN W. HOUSEMAN, PROJECT FOR THE FUTURE OF EQUAL JUSTICE, CTR. FOR LAW & SOCIAL POLICY, *THE MISSING LINK OF STATE JUSTICE COMMUNITIES: THE CAPACITY IN EACH STATE FOR STATE LEVEL ADVOCACY, COORDINATION AND SUPPORT* (2001). Twelve of the state entities were LSC-funded state support centers.

aid community as a whole will have to make three critical changes. First, it will have to strengthen the capacity of individual lawyers and paralegals, and the programs in which they work, to engage in racial justice work. Second, it will have to ensure that the emerging state justice communities explicitly incorporate racial justice advocacy as a key component. Third, it will have to collaborate with local and national civil rights groups and develop new and more effective approaches to the legal problems of low-income people of color.

A. Practitioners

The articles in this issue of the REVIEW put forward a lengthy set of race-based advocacy tools that practitioners can use to address racial discrimination in housing, education, health care, welfare, employment, consumer credit, and elsewhere. These tools range from federal antidiscrimination statutes to more specific laws and regulations that address discrimination in a particular area.

Articles in this issue also set forth examples of effective race-based advocacy around the country by legal aid programs, including those funded by LSC.²¹ Legal aid practitioners have represented single individuals in single or multiple cases and have filed single cases on behalf of several individuals with similar legal problems. They have represented racial justice and other community groups concerned about discrimination and have engaged in economic development activities on behalf of community development organizations and tenant associations. Non-LSC-funded programs have filed major class action lawsuits raising pattern and practice or disparate impact claims.²² LSC-funded programs have undertaken representative actions that are procedurally available under the laws of some states but are not class actions; these cases can result in significant changes in law and policy that extend beyond specific clients. And legal aid practitioners can give government authorities information on patterns of discrimination that

can lead to class actions to address the offending practices.

Many legal aid programs have developed effective education and outreach efforts to educate low-income people of color about their rights and about laws that may benefit them. Legal aid practitioners have engaged in a host of policy advocacy efforts to improve the practices of government agencies and to effect the adoption of statutes and regulations that benefit low-income people of color. These efforts include media work that promotes support for communities of color or highlights racial discrimination in need of redress. All these approaches are available to practitioners and should be used to confront the racial discrimination and isolation that low-income people of color experience.

B. Legal Aid Programs

The existence of this broad array of tools and strategies for race-based advocacy does not necessarily mean that programs will create the structure and environment to use them effectively. To increase race-based advocacy, legal aid programs must change. They will need to

- give greater priority and renewed commitment to race-based advocacy programwide;
- engage with groups that focus on racial justice in the communities they serve;
- ensure that staff are committed to racial justice work and train staff in the range of advocacy strategies needed to engage in the whole range of racial justice advocacy; and
- structure their offices to enable staff to engage in race-based advocacy and carry out the broad range of race-based advocacy strategies.

Engaging in broad race-based advocacy may not be possible for all legal aid programs. Some are small and focus on a single issue or serve a small geographic area; others receive funding that limits what they can do. However, most, includ-

²¹ See Holmes et al., *supra* note 1.

²² See Dietrich & Zatz, *supra* note 9.

ing those with LSC funds, can increase their race-based advocacy if they choose to do so.²³

1. Priority Setting and Program Commitment

For race-based advocacy to increase, legal aid programs will have to give it greater priority. As a practical matter, program directors, managers, and senior advocates must lead; they will have to plan to increase such advocacy and commit the organization to doing so. This will not happen through the LSC-required formal setting of priorities. It will happen only when programs incorporate racial justice advocacy into their mission and vision and when management and staff make the necessary changes in program operations. This will clearly affect program fund-raising to some degree, because new funds may have to be raised to undertake new forms of advocacy. But it will also affect other central aspects of program operations. For example, legal aid programs may have to develop and implement, for staff, performance measures that incorporate race-based advocacy in the criteria used for evaluation and promotion. As indicated by the examples described in this issue of the REVIEW, a number of legal aid programs—LSC-funded or not—have made this commitment and have engaged in effective race-based advocacy.²⁴

2. Engaging the Racial Justice Community

Legal aid programs to be effective must engage the community.²⁵ Program staff should be in constant touch with community groups of all kinds. Racial jus-

tice groups are no exception. Indeed, systemic race-based advocacy requires effective communication, coordination, and interaction with racial justice groups. Only through such constant interaction can legal aid programs be aware of the problems which they must address and the activities in which they must engage.

3. Staff Hiring and Development

Legal aid programs must hire staff and management who have a basic understanding of the problems of race and poverty in our society and a commitment to addressing them. Clearly staff and management should be diverse, and programs need to do more to ensure diversity within the civil legal aid community.²⁶ But what is critical is that the staff who are hired, of whatever racial or ethnic make-up, are prepared to undertake the work and face the pressures from those in the justice community and the broader community who may not see or want to face up to the ongoing racial discrimination in the justice system or in the society at large.

Hiring committed and diverse staff is not enough; they must be trained about the substance of and the advocacy tools necessary for race-based advocacy. Moreover, the legal aid program has to ensure continuing staff development on race-based advocacy. Such training and development are not solely the responsibility of individual legal aid programs; they are also the responsibility of state, regional, and national training entities. Too little training is currently available on either the substance or the tools needed for race-based advocacy, and all levels of the system must make a commitment to ensuring that such training is available. The

²³ See Holmes et al., *supra* note 1.

²⁴ Two prominent examples are the Legal Aid Foundation of Los Angeles and California Rural Legal Assistance.

²⁵ My views on this have been set out in a number of articles. See, e.g., Alan W. Houseman, *Civil Legal Assistance for the Twenty-First Century: Achieving Equal Justice for All*, 17 YALE L. & POL'Y REV. 369 (1998).

²⁶ A new focus on diversity is beginning to develop. Last year, LSC and the National Legal Aid and Defender Association sponsored a two-day meeting that brought together key leaders and included a focus on leadership development for people of color as well as race-based advocacy as a programmatic priority. The National Legal Aid and Defender Association is exploring the creation of a national leadership institute for justice; the institute will include diversity issues within the civil legal aid community as a central focus.

National Legal Aid and Defender Association, for example, is increasing training on race-based advocacy at its annual conference, the equal justice conference, the substantive law conference, and the upcoming litigation and advocacy directors' conference. The civil legal aid community as a whole needs to do much more.

4. Office Structure

Legal aid programs have to be structured and organized so that their staffs can engage in the range of advocacy

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efforts that are part of a comprehensive race-based advocacy initiative. At the most basic level, legal aid programs must provide the resources and structure to allow attorneys to engage in affirmative, systemic litigation that is an essential part of race-based advocacy.²⁷ Such litigation may involve large-scale class actions that require assistance from private lawyers and civil rights legal organizations. Legal aid programs must have the capacity, on their own or by working with other programs and the private bar, to engage in

- a wide range of individual representation in courts and before administrative agencies such as the Equal Employment Opportunity Commission and the Office for Civil Rights at various federal departments;
- aggressive outreach and community legal education on racial justice issues;
- numerous community activities that advance racial justice;
- policy advocacy before legislative and administrative bodies, on critical issues affecting racial discrimination against the poor; and

- education and use of the media.

Individual programs must ensure that their intake systems are designed so that intake workers, those providing brief service and advice, and substantive specialists spot claims of racial discrimination and that the program has an effective means of acting upon that information.

Restructuring legal aid programs to carry out race-based advocacy effectively will not be easy. It will take time and will require a serious commitment from each program, but some programs have made the commitment. Nearly all can do so.

C. State Justice Communities

Although practitioners may not feel that they have a role to play in the development of state justice communities, the fact is that they do. That the civil legal aid community and its leadership cannot expect to improve the civil legal aid system by focusing solely on individual programs is now widely accepted. Those concerned about civil legal aid and racial justice must focus on the newly emerging state justice communities that are being developed by the state planning spearheaded by LSC, Interest on Lawyers Trust Account programs, and the National Legal Aid and Defender Association and American Bar Association State Planning Assistance Network.

State justice communities are being designed to achieve equal justice for all by pursuing three fundamental objectives:

- To increase awareness of rights, options, and services through coordinated, systematic, and comprehensive outreach and community legal education.
- To facilitate access to legal assistance through a coordinated system of service delivery, coordinated advice and brief services, and accessible, flexible, responsive, and coordinated intake systems.
- To provide a full range of civil legal assistance and related services to enable low-income persons to anticipate and prevent legal problems from arising, resolve

²⁷ For a careful discussion of the resource needs for systemic advocacy, see Roisman, *supra* note 8; Dietrich & Zatz, *supra* note 9; Elsesser & Newman, *supra* note 6.

their legal problems efficiently and effectively, protect their legal rights, promote their legal interests, enforce and reform laws, and improve their opportunities and quality of life.

State justice communities cannot achieve equal justice for all unless they provide access to and have the capacity to deliver a full range of civil legal assistance to individuals and groups who are politically or socially disfavored or experience disproportionate burdens of poverty and all who have disproportionate legal needs. These individuals, groups, and constituencies include Native Americans; migrant farm workers; prisoners; persons residing in institutions; immigrants; seniors; and persons with mental and physical disabilities. But they also include low-income persons of color who do not fall into any of these categories. Individuals and constituency groups should not be omitted from the civil legal aid system simply because others perceive them as undeserving. The civil legal system also must seek to eliminate barriers to access to the system; such barriers result from geographic isolation, language, disability, age, race, ethnicity and culture, inability to communicate, or inaccessibility of the legal aid provider's facility.

While a few state justice communities have focused on racial justice as a central concern in assuring that a full range of civil legal assistance is available, most have not.²⁸ Indeed, most have concentrated very little on any substantive legal work at all.²⁹ It is time to highlight the need for race-based advocacy as a central focus of state justice communities.

Two initial steps are necessary. First, those who coordinate with and provide assistance to state planners and participate in developing state justice communities must be briefed and educated about

racial justice issues. Second, we need to highlight state planning efforts that have addressed racial justice successfully and offer examples for other states to follow.

Advocates who are or want to be engaged in racial justice work and race-based advocacy should direct their directors' and state planners' attention to the critical need to focus on these issues. We must highlight the problems of racial isolation and racial discrimination and the need for increased race-based advocacy at all levels of the civil legal aid community. National organizations such as the National Legal Aid and Defender Association, the Center for Law and Social Policy, the Management Information Exchange, the American Bar Association Legal Services Division and its relevant committees, and others who work closely with civil legal aid can do more to highlight these issues. For example, they can

- review their annual conferences and training events and make sure that they explicitly incorporate racial justice and race-based advocacy as a central part of these meetings;
- focus issues of their publications on racial justice initiatives;
- highlight—through awards that they give—examples of racial justice advocates who have been successful; and
- speak out through their leaders on racial justice issues.

D. New Collaborations, Strategies, and Approaches

The introductory articles that immediately follow, as well as other articles in this issue, set forth a host of racial justice strategies that can be used effectively and realistically by legal aid programs. But to increase the work of civil legal aid on racial

²⁸ One exception is Washington State, which has devoted considerable resources to ensuring that the equal justice planners and key state judicial officials are aware of racial justice and related issues. E.g., at the 2001 Washington Access to Justice Conference (which included bar leaders, the judiciary, court clerks, legal aid providers, law schools and others), Jon Powell, executive director of the Institute on Race and Poverty, gave the keynote address, describing what happens when segments of society are isolated from access to the justice system.

²⁹ There has been too little focus on ensuring the capacity in each state for state-level advocacy, coordination, information dissemination, and support. See Houseman, *supra* note 20.

justice issues and address the critical intersection of race and poverty that underlies the legal problems of low-income people of color, we need to do more.

First, advocates in legal aid programs engaged in race-based advocacy must come together with innovators in the civil rights community to consider new strategies that legal aid providers can incorporate into the work of state justice communities. One of those broad strategies involves community-oriented and problem-solving approaches highlighted in a recent report to the Rockefeller Foundation: “Louder than Words: Communities and the Struggle for Justice.”³⁰ Traditional civil rights organizations and newer organizations such as the Institute on Race and Poverty in Minnesota and the Advancement Project are developing others.³¹ Mechanisms for coming together include national conferences, strategy sessions on particular issues, and ongoing exchanges of ideas through electronic means, regional meetings, and in other ways.

Second, we need to encourage and stimulate advocates from both the civil legal aid and civil rights communities to prepare strategy papers on key issues facing low-income people of color. This issue of the REVIEW is a new beginning, but this long overdue effort must continue in future issues of the REVIEW and in other forums as well. This will not happen without a focused effort that reaches out to civil rights and civil legal aid advocates and thinkers to stimulate the development of such papers.

Third, we need to develop and encourage collaborative efforts between civil

rights and civil legal aid programs. Doing so will require renewal of the historic connections between the civil legal aid and civil rights communities at both the national and local levels. As such projects develop and mature, we will need to publicize successful efforts in all relevant forums and journals.

The responsibility to encourage these three steps should not rest on any one organization or institution. Ultimately it must involve concrete efforts from both the civil legal aid and civil rights communities. The Civil Rights and Racial Justice Initiative of the Project for the Future of Equal Justice is beginning to explore how to move forward on some of these steps and is reaching out to civil rights organizations to renew old relationships and form new ones. But other organizations within the civil legal aid and civil rights communities must accept responsibility for moving forward as well.

IT IS TIME FOR THE CIVIL LEGAL AID COMMUNITY to refocus on the critical problems of racial isolation and racial discrimination that underlie many of the legal problems of low-income persons of color. The articles in this issue of the REVIEW open up a long-overdue dialogue about race-based advocacy. But much more is called for. We must develop new ways of thinking and new strategies. Individual legal aid programs need to give greater priority and commitment to race-based advocacy. And state justice communities must put racial justice at the top of their list for their future work.

Editor's note: In the next six introductory articles, advocates were invited to describe legal services' advocacy and future challenges in their respective areas of expertise. Limited space was allotted for each topic.

³⁰ The report highlighted Greater Boston Legal Services and North Rural Mississippi Legal Services as examples of community-led collaborative approaches.

³¹ These include, but are not limited to, the Leadership Conference on Civil Rights, the NAACP Legal Defense and Educational Fund, the Mexican American Legal Defense and Education Fund, the Asian Pacific American Legal Center, and the Lawyers Committee for Civil Rights.