

**RECENT DEVELOPMENTS:
CIVIL LEGAL ASSISTANCE IN THE
UNITED STATES**

BY

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DIRECTOR**

**CENTER FOR LAW AND SOCIAL POLICY
AND
PROJECT FOR THE FUTURE OF EQUAL JUSTICE**

June 4, 2001

Center for Law and Social Policy
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INTRODUCTION

Between 1965, (when the federal government first made funds available for legal services through the Office of Economic Opportunity) and 1995 (when the federally-funded legal aid program was fundamentally changed and funding reduced), the legal services program was a national program whose principal, and in some places, sole funder was the Federal government. Since 1975, when the Legal Services Corporation (LSC) began, the structure and principal directions of the program were set by Congressional legislation and the regulations, policies and oversight provided by LSC. While the preeminence of the LSC role began to change during the 1980s and into the 1990s, as States and other non-LSC funding sources began to provide a greater share of overall legal services resources, the program remained essentially national in scope and direction. Local program directors and staff all shared the view that the legal services program was to help people in poverty address their most pressing legal needs.

Since 1995, the landscape of staff attorney legal aid providers has undergone substantial change. Six years ago the civil legal assistance system funded by the LSC consisted primarily of full-service providers, each serving one geographic area, with the responsibility and capacity to provide high-quality legal assistance in all forums and to ensure access of all clients and client groups to the legal system.¹ Today, instead of one full-service provider, there are two newly organized direct service providers each operating statewide in the same geographic areas in 16 states and two direct service providers in over 20 large or medium size cities. In addition, the number of LSC providers has gone down from over 325 grantees in 1995 to 167 grantees at the

¹Even within the legal aid world, LSC-funded providers were never the only providers who delivered civil legal assistance to the poor. In cities like Washington D.C., New York City, Chicago, and others, and in states like California, there were a number of providers, some of which were full-service providers that were not funded by LSC.

beginning of 2002. Local program grantees have been reduced from 292 to 163. Moreover, because of the new restrictions on advocacy and who can be represented, LSC-funded legal services programs cannot operate fully in all forums.

Thus, what is emerging in many states is a new delivery system that includes both programs funded with LSC funds but restricted in its activities, as well as programs funded with substantial non-LSC funds. The non-LSC providers are free to engage in class actions, welfare reform advocacy, representation before legislature and administrative bodies, and assistance to aliens and prisoners so long as their public and private funding sources permit their resources to be used for those activities. Moreover, in a number of jurisdictions, the private bar is becoming significantly more involved in delivering basic legal services as well as undertaking those activities that LSC recipients are restricted from handling.

In addition to the changes to 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 dismantled.² At the state level, these have been replaced by a separate group of non-LSC funded entities engaged in state advocacy in over 35 states.³

Finally, we are beginning to see the emergence of comprehensive, integrated statewide systems of delivery that are coordinated or even managed by a broadly representative access to justice commission and which seek to involve a single point of entry for all clients, integrate all institutional and individual providers and partners, allocate resources among providers to ensure that representation can occur in all forums for all low-income persons and seek to provide access to a range of services for all eligible clients no matter where they live, the language they speak or the ethnic or cultural group of which they are a member.⁴ LSC has required all of its grantees to engage in state planning to achieve such a system, the Project for the Future of Equal Justice (a joint program of the National Legal Aid & Defender Association and CLASP) is promoting such a system and the American Bar Association has joined the effort to

²This network consisted of state and national support centers, a National Clearinghouse and poverty law journal, and training programs combined with a single federal source of funds, quality standards, delivery research and training.

³Some of the state entities are formerly LSC funded state support centers, although there are only 12 of those still in existence.

⁴Washington, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Maryland, New Jersey, Michigan, Nebraska, Florida, Minnesota, Colorado, New Mexico, Oregon, Ohio, Indiana, West Virginia, Virginia, Texas, Wisconsin, Illinois, Kentucky and Tennessee (among others) are moving forward toward statewide-integrated systems and California, Pennsylvania and New York are moving toward regional integration.

encourage bar leaders to participate in state planning and promote statewide, integrated systems.⁵

One fundamental consequence of these developments is that state-level funding has become a primary focal point for the future of civil legal assistance. The civil legal assistance system of the future will be state-based, with some funding and overall coordination coming from LSC. The state provides the basic legal framework in which most representation occurs. Moreover, as a result of the policies of devolution, in the future, the state will have even a larger role in determining policies affecting the poor.⁶ In addition, as more programs operate without LSC funding and greater resources are provided by other funders, LSC will have far less ability to set directions for the overall civil legal assistance system.⁷ Thus, how programs are structured, how various providers are coordinated and integrated into an effective whole, and ultimately how civil legal assistance for low-income persons are provided, will be dependent as much on actions taken at the state as on the national level.

⁵In recognition and anticipation of this fundamental shift, a comprehensive State planning initiative was undertaken in 1995 to respond to the legal services crisis. The American Bar Association and the national legal services organizations encouraged State planning through a series of national and regional meetings and the provision of technical and legal assistance to ongoing State planning processes. LSC required its recipients to undertake State-planning processes as well. As a result, State planning efforts were begun in virtually every State, although the breadth and quality of these efforts varied widely. NLADA and the American Bar Association created the State Planning Assistance Network (SPAN) in February of 1996. SPAN provides leadership and assistance to State planning groups in order to support and stimulate legal services planning efforts around the country. In 1998, LSC issued a new statewide planning letter requiring all LSC-funded recipients to report by October 1, 1998 on how they and the other programs in their state were going to address seven issues: intake and the provision of advice and brief services; effective use of technology; increased access to self-help and prevention information; capacities for training and access to information and expert assistance; engagement of pro bono attorneys; development of additional resources; and configuration issues such as mergers and consolidations within states. See **LSC Program Letter No. 98-1**, February 12, 1998. A subsequent Program Letter set out more details on what LSC was seeking, explained how the October report should be presented and clarified how the state planning process would affect LSC grant decisions for 1991 and beyond. See **LSC Program Letter 98-6, July 6, 1998, State Planning Considerations**. Beginning in 1998 and continuing through 2001, LSC has made funding decisions based on state planning. For a discussion of LSC state planning, see **Building State Justice Communities: A State Planning Report from the Legal Services Corporation**, March 2001. LSC programs are now undergoing an assessment of their state planning achievements pursuant to **LSC Program Letter 2000-7**. In addition to the efforts by LSC, the Project for the Future of Equal Justice issued on July 8, 1998, **A Discussion Draft: Characteristics of a Comprehensive Integrated State System for the Provisions of Civil legal Assistance to Achieve Equal Justice for All**. This statement set out the object of a state civil legal assistance system and then describes the key characteristics of such a system.

⁶See discussion in Houseman, Alan W., "Civil legal Assistance for the Twenty-First Century: Achieving Equal Justice for All," Yale Law and Policy Review, vol. 17, No. 1, 1998.

⁷In many states LSC will no longer have the primary role in funding legal services. Instead, funding sources within most States will continue to grow and, in many States, will ultimately predominate. The amount of non-LSC funds varies greatly among states: 15 states in the South, Southwest and Rocky Mountain areas receive less than 30% of their total funding from non-LSC sources; 27 states have non-LSC funding of over 50% of their total funding. A few states have non-LSC funding as high as 86%.

The recent U.S. Supreme Court decision *LSC v. Velazquez*, 121 S. Ct. 1043 (2001) (hereafter Velazquez) on legal services restrictions does not fundamentally change this analysis. On Monday, March 5, 2001, the U.S. Supreme Court denied, without comment, the petition for certiorari that had been filed by the plaintiffs in the case. That petition had sought Supreme Court review of the Second Circuit's February 1999, decision that had upheld virtually all of the Congressionally imposed restrictions on LSC and the Corporation's regulation on program integrity, with the exception of the provision that permits representation in individual welfare cases only when the cases did not challenge existing law. The denial of the certiorari petition follows by less than a week the Supreme Court's 5-4 decision in the same case that affirmed the Second Circuit's conclusion that the "existing law" provision violates the First Amendment because it constitutes unlawful viewpoint based discrimination.

Although the language of the February 28 decision was often broad, the conclusions focused narrowly on the so-called "suits for benefits" exception to the restriction on participation in welfare reform efforts. The Court agreed with the Second Circuit's reasoning that by limiting participation in welfare litigation to those individual cases against welfare agencies that did not challenge existing welfare statutes or regulations, Congress had impermissibly restricted lawyers from presenting arguments and analyses to the courts which had the effect of distorting the legal system and altering the traditional role of lawyers as advocates for their clients. When Congress chose to subsidize individual representation in welfare cases, the Court said that it could not restrict the arguments that legal services attorneys could make on behalf of their clients in those cases. Such a restriction amounted to unconstitutional viewpoint discrimination and violated the free speech guarantee of the First Amendment.

The Supreme Court's decision did not strike down the general restriction on legal services representation or other participation in litigation, lobbying or rulemaking efforts around welfare reform. Nor did it require Congress to continue to fund representation on individual welfare cases. In fact, the Court left standing the Second Circuit's ruling that the provision that was invalidated could be severed from the other provisions of the welfare reform restriction, leaving them in place.

The immediate effect of the decision is to give recipients some flexibility to challenge state statutory and regulatory provisions that are inconsistent with the constitution or other law in the context of cases for individuals seeking redress from state or local welfare agencies. Although the Velazquez case is clearly a victory for legal services clients and their attorneys, it does not, by any means, constitute a wholesale rejection of the LSC appropriations act restrictions, nor does it guarantee that LSC recipients will be permitted to represent their clients unfettered by Congressional control and oversight.

WHERE ARE WE NOW WHERE ARE WE GOING

The two critical challenges which this new system will face are: (1) how to expand funding and resources, both personal and financial; and (2) how to develop and perfect an integrated state system of civil legal assistance that includes an interconnected system of local and statewide providers, working together as a community of advocates to achieve equal justice for all.

A. Funding

Without additional funding, the civil legal assistance community cannot achieve increased access for low-income persons nor implement the civil legal assistance system for the future. As many commentators including Earl Johnson have pointed out, the US system is funded far below the level of funding that is provided by most of the other Western developed nations.⁸ For example, in the US the per capita government expenditures for civil legal assistance is \$2.25, while the equivalent figures for England is \$32, and New Zealand \$12, Ontario \$11.40.⁹ Even so, it is important to recognize that over the last decade, the US system has grown from approximately \$400 million to over \$800 million.

We can expect that increased funding will come from state and local governmental and private resources.¹⁰ Since 1982, funding from state and local governments has increased a few million dollars to over \$215 million.¹¹ Until recently, this increase has been primarily through IOLTA funding that has now been implemented in every state. While IOLTA funding is in some jeopardy because of the recent U.S. Supreme Court decision, the funding will continue for the next several years without any question and will likely continue even if the ultimate judicial resolution is adverse to

⁸ See Earl Johnson, "Equal Access to Justice: Comparing Access to Justice in the United States and Other Industrial Democracies" 24 Fordham Int'l L. J. 83 (2001).

⁹ This huge disparity is not unique to civil legal assistance funding. Among the OECD (Organization for Economic Cooperation and Development) countries, the US spent the least in tax and transfer expenditures for children as a percentage of gross earning: 1.4 % compared to an average of 7 percent in the other industrialized countries. The Luxembourg Income Study found that tax and transfer policies in the US affecting families and children had a poverty reduction rate of 17 percent compared to 40 percent in the UK and 37 percent in Canada.

¹⁰ This newly emerging system of delivery must be put into context. State funding is no more secure than federal funding and the debate over whether there should be governmental funding for civil legal assistance is not limited to Congress. Many of the same debates are occurring at the state level. Last year, efforts were made in Virginia to impose the LSC restriction on state funds and restrictions were added to funding in New York. Finally, IOLTA funding is under constitutional attack in several states and in the federal system.

¹¹ This exact amount of state funding for civil legal assistance has not been fully documented because much of this funding has gone to non-LSC funded programs who do not have to report to any central funding source, unlike LSC-funded programs.

IOLTA. In fact, in many states, there are new initiatives that expand revenue from IOLTA programs. Within the last three years, substantial new state funding has come from general state or local governmental appropriations, filing fee surcharges, state abandoned property funds, punitive damage awards, and other governmental initiatives. In addition, there has been substantial increases in funding from private sources including foundation and corporate gifts, United Way funding, special events, funding from religious institutions, fee for service projects, lawyer fund drives, attorney registration fee increase or deus assessment, dues check-off or add-ons, bar association appropriations, funds from *cy pres* awards, and from awards from attorneys' fees pursuant to fee-shifting statutes.

Even though 27 states now have non-LSC funding that exceeds LSC funding and even though new funding will come primarily from non-LSC sources, increased funding from the federal government will also be essential for two reasons: first, civil legal services is a federal responsibility and LSC continues to be the primary single funder and standard setter. Second, there are many parts of the country—the South, Southwest and Rocky Mountain states—that have not yet developed sufficient non-LSC funds to operate civil legal assistance including pro bono programs without federal support. 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 justice would be a fiction.

However, federal funding is not going to fill the huge gaps between need for civil legal assistance and the capacity of the system to meet that need. Not since the expansion days of the late 1970s did the civil legal assistance system achieve significant increases in federal funding and today's funding buys far less service than it bought before much of the expansion occurred. In fact, the amount of LSC funding using 1999 dollars has dropped over 50% since 1980. Today, it would take over \$605 million in LSC funds to equal the amount of LSC funding in 1980.¹² Currently LSC is funded at \$330 million. The new administration has proposed level funding – no increases – for FY2002.

It will be very difficult to substantially (as opposed to incrementally) increase federal funding for civil legal assistance. Substantial growth is not likely to occur until there is a much different political alignment in the federal government and much greater support for civil legal aid among the general public (as distinguished from the organized bar.) In part this is because the political leadership of the US remains totally divided about whether there should be a federal program, and, if there should be one, how it should be structured.

For example, many key Republican congressional leaders continue to seek the total elimination of LSC funding, while others continue to support block grants to states.

¹²These calculations were prepared for NLADA and CLASP by Aaron Bergmark and reflect actual inflation since 1980. The chart is available from the author.

On the other hand, many liberal Democrats want to increase funding, but they do not control the Congress. Thus, the moderate forces in Congress continue to control LSC appropriations and support restrictions on what programs can and cannot do. In the United States, Congress controls LSC funding, to an even greater degree than funding of other Federal entities, because the LSC Act limits control of the President to appointment of a board and to commenting upon the LSC budget request. As a practical matter, a supportive President and LSC Board can not overcome a hostile or neutral Congress. Likewise a one chamber of a Congress that supports higher funding cannot successfully force a President and another chamber to accept large increases in funding. At most, a supportive Administration or a supportive chamber of Congress can achieve small, Incremental increases. Since this political situation is not likely to fundamentally change over the next year or so, the growth in the civil legal assistance system will continue to come primarily from state and local sources, including both governmental and private sources.

In recognition of this political reality, the Project for the Future of Equal Justice has begun a new resource development initiative whose ultimate objective is to build a base of stronger public support through an aggressive media campaign that will be carried out on the local and state level by those concerned with improving civil legal assistance to low-income persons. Based on the findings from a series of focus groups and a national poll on civil legal assistance, the Project and its consultants are developing a series of media efforts for use by state and local groups that will begin to be used shortly. In time, these and other new efforts now beginning will increase support for civil legal aid.

B. A Comprehensive Integrated System

The newly emerging state systems are being designed to reach three fundamental objectives:

1. Increase awareness of rights, options and services through coordinated, systematic and comprehensive outreach and community legal education.
2. 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.
3. 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 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.

1. Achieving Access to Civil Legal Assistance

Virtually every legal needs study that has been done over the last ten years tells us that the current system is meeting at most 20% of the legal needs of the population legal services are supposed to be serving. To achieve full access to civil legal assistance will involve increased financial resources to be sure. But, it is now generally recognized within the bar and among providers of civil legal assistance, achieving access will require new methods of delivery.¹³ States are now beginning to develop and implement plans to achieve access that include four fundamental elements.

a. Coordinated system of service delivery using all individual and institutional providers

Under pressure from LSC, IOLTA commissions, the bar and national organizations (Project for the Future of Equal Justice), states are beginning to create new providers and redeploy existing providers into, a coordinated system of service providers which uses both institutional providers and individuals in order to ensure that services are accessible from all parts of the state, including remote rural areas and low-income urban neighborhoods. These state systems seek to 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. In addition, the coordinated systems are designed to provide legal information and assistance in all of the languages spoken by a significant number of low-income persons. Finally, the state system are begin designed to serve all segments of low-income and vulnerable households, including those constituencies with distinct, unique or disproportionately experienced legal needs.

b. Centralized or coordinated advice and brief services system

The state systems are developing advice and brief services system 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.

¹³The 1996 policy report from ABA's Comprehensive Legal Needs Study, AGENDA FOR ACCESS: THE AMERICAN PEOPLE AND CIVIL JUSTICE, by Albert H. Cantril, American Bar Association, calls for: (1) increasing the flexibility of the civil justice system and expanding the options available for people seeking legal help, including hot lines and assistance to those proceeding pro se; (2) developing better ways for people to obtain information about their options when facing a legal situation and more effective referral systems including more legal education through pamphlets, kiosks and other new technologies ; (3) increasing pro bono legal services by the private bar; (4) increasing the availability of affordable legal services to moderate-income individuals and households through sliding fees and expansion of legal services programs; (5) integrating the use of community-based dispute resolution services into the options available for low-income clients; and (6) encouraging legal services programs to retain as much flexibility as possible in deciding what cases to accept.

Telephone hotlines are now being used in 140 programs in 45 states to address the problem with program case review systems and intake procedures that created barriers between attorneys and advocates with expertise and the clients who need immediate advice, assistance or referral.¹⁴ Some focus on particular client groups such as the elderly. In 1999, there were 20 senior legal hotlines in 18 states, Puerto Rico and the District of Columbia. Others focus on all client groups. A few have been developed for special targeting efforts, such as changes in welfare reform. There are 36 state hotlines in 30 states. In states where one centralized system do not make sense, regional systems are being developed.

The Project for the Future of Equal Justice undertook a study of the effectiveness of centralized telephone legal advice, brief service and referral systems in the delivery of civil legal assistance. Phase I, completed in March 2000, used existing data to compare “before” and “after” caseload statistics in programs that had adopted Hotline system, to determine the effect of the Hotline system on the number of clients served and the levels of brief and extended services. The study concluded that hotlines can be effective, i.e., the capacity to provide brief service can be increased without reducing capacity to provide extended services, but success is not guaranteed. It also concluded that all those operating hotlines perceived that they expanded capacity, productivity and accessibility. Phase II will evaluate the effectiveness of Hotline systems in obtaining favorable outcomes for clients, and address other questions relating to Hotline effectiveness identified in Phase I.¹⁵

c. Accessible, flexible, responsive intake systems

To facilitate and enhance access, state systems are developing and implementing accessible, flexible and responsive intake systems that include telephone screening, case evaluation and referral systems. These systems are able to effectively diagnose legal problems and identify legal interests to determine the level of service that each applicant needs. They also have the capacity to make referral to the system of legal providers including pro bono advice and referral panels, evening legal workshops and clinics, law school clinics, high-volume automated document assembly systems and pro se assistance programs. They also make referral to alternative dispute resolution (ADR) providers or community-based organizations and to other appropriate non-legal organizations.

d. Maximum use of technology

States are also developing plans and moving toward the use of new and innovative electronic and video technologies to improve access and address unique and

¹⁴The data reported here is available in the State-By-State Legal Hotline Directory available on the website for the Project for the Future of Equal Justice at www.equaljustice.org.

¹⁵The evaluation can be found at www.equaljustice.org/innovativeservices/legalhotlines.

distinct unmet legal problems, to ensure efficiency and effective communication, coordination and collaboration, and to access a broader base of knowledge, work more efficiently, and reach more clients. These technologies are being used to (1) improve program management over the delivery of legal services to clients; (2) providing support and information for attorneys and other advocates; and (3) assisting individuals who choose to or must attempt to access the legal system without an attorney or other advocate. For example, at least ten and possibly as many as 15 states are creating state-of-the-art information dissemination networks which provide 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. Some states have established a 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. A few states have established a 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. States are also developing coordinated statewide research strategies that integrate Internet usage, on-line services, proprietary sources, and other resources and develop a coordinated data management systems to facilitate information sharing and case file transfers.

e. Efficient, client friendly gateway into the state civil legal assistance system

A number of states are combining statewide advice and brief services systems with statewide intake systems to serve as a client friendly gateway into the civil legal assistance system for those low-income persons and groups who can navigate such a system.¹⁶ Several new programs have even devoted significant resources to statewide hotlines and have all but abandoned using staff to provide direct representation, leaving such representation to non-LSC funded providers.¹⁷ LSC has strongly encouraged these efforts both through its funding decisions and by disseminating information about what programs have been doing.¹⁸ Such combined systems not only provide critical services that are used by a majority of low-income persons now accessing the current

¹⁶For example, such states include Vermont, New Hampshire, Maine, Connecticut, New Jersey, Washington and Hawaii. Colorado and other states are developing such systems.

¹⁷See e.g., Law Line of Vermont and Statewide Legal Services of Connecticut.

¹⁸See BASIC ELEMENTS OF EFFECTIVE CENTRALIZED TELEPHONE INTAKE AND DELIVERY SYSTEMS, LSC, (March 1997) which described how such systems worked and provided some basic regulatory guidance and INTAKE SYSTEMS REPORT: INNOVATIVE USES OF CENTRALIZED TELEPHONE INTAKE AND DELIVERY IN FIVE PROGRAMS, LSC (March 1998) which described the statewide systems for Connecticut, New Hampshire, Vermont and Washington and the system in the Boston area.

system, but they offer clients who need a fuller range of legal advice and/or representation easy access to such legal assistance. In addition, such combined systems also serve as a clearinghouse of information for staff, low-income persons, courts, pro bono programs, law school clinics and other providers and partners.

2. Provide a Full Range of Services

Over 20 states are moving forward to design their civil legal assistance delivery systems to 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. Such systems 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.

Services that are available include:

- Legal advice and referral;
- Brief legal services;
- Representation in negotiation;
- Representation in the judicial system and in administrative adjudicatory processes using all forms of representation appropriate for the individual or group being represented;
- Transactional assistance (including community economic development, job creation, housing development, and the like);
- Representation before state and local legislative, administrative and other governmental or private bodies that make law or policies affecting legal rights and responsibilities;
- 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;
- Assistance to individuals representing themselves pro se;
- Advocacy to help make the legal system more approachable, receptive and responsive to low-income persons, including those with special needs.

3. Utilizing a Full Range of Providers

In all state systems, civil legal assistance will continue to be delivered by staff attorneys and paralegals. However, there is an increasing use of other advocates including:

- ♦ private attorneys who work for a small fee or pro bono;
- ♦ law students working in clinical and other programs;
- ♦ staff from other community-based organizations;
- ♦ 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);
- ♦ non-lawyers and lay advocates; and
- ♦ others involved in or relating to the civil justice system such as clerks, law librarians and other court personnel.

In a few states, these all are beginning to work as a community of advocates. In particular, State civil assistance systems are making increasing use of private attorneys and utilizing their expertise and the resources they bring for a variety of functions.

4. Collaboration with Human Services Providers

In a number of states legal providers are coordinating and collaborating with human services providers, community based organizations, low-income groups and other entities in order 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.

Developing partnerships and collaborations with a variety of providers and community entities, including local and State governmental agencies, has proven to be a very effective way of providing critical services and maximizing assistance to low-income clients. Often, more clients can be reached through such collaborations than by working in isolation.¹⁹ There are other advantages as well from such partnerships and collaborations. These groups can directly influence policy, often more effectively than the legal services program.²⁰ Moreover, joining in partnerships with other human services providers has resulted in increased funding for the legal services program, either directly or as a line item in the human services agencies budget. Finally, such partnerships have created a greater awareness of the substantive challenges facing low-income persons, increased understanding of the role of civil legal assistance and facilitate the creation of new grass roots, community based organizations of low-income persons.

¹⁹Steve Xanthopoulos, Executive Director, West Tennessee Legal Services provided an excellent discussion of the advantages of partnerships, in the Fall 1997 issue of the NLADA CORNERSTONE. See *View from the Trenches: Local Partnerships Enhance Results for Program Clients*, p. 6-7.

²⁰A good example of the effectiveness of coalitions in welfare advocacy is about obtaining domestic violence exception for time limits, Sharon M. Dietrick, Irv Ackelsberg, Deborah L. Freedman, Louise E. Hayes, and Richard P. Weishaupt, *Welfare Advocacy: Tactics for a New Era*, 31 CLEARINGHOUSE REVIEW 419 (January-February 1998).

Collaborations and partnerships have also provided opportunities for holistic service delivery innovations that involve legal services working in conjunction with other human services delivery programs to deliver integrated services.²¹ Such partnerships not only have enhanced a legal services program role as an integral part of a community's delivery of services, but also enabled the program "to become a part of a bigger solution for our client's problems."²²

5. Ensuring Statewide Coordination and Support for Providers of Civil Legal Assistance

An integrated, comprehensive state system of civil legal assistance not only requires a range of critical services and a coordinated community of advocates, but it also requires a systematic effort to ensure coordination and support for all legal providers and their partners and a central focus on statewide issues of importance to low income persons including representation before legislative and administrative bodies. This will require a system to coordinate advocacy in all state level legal forums on matters of consequence to low-income people.

The loss of over \$10 million in state support funding as a result of the Congressional funding decision made in 1995 has taken a large toll on the state support structure that was previously in place. Many of the state support units and the regional training centers that were part of larger programs have been eliminated. A number of new entities that are generally severely under funded and understaffed have developed to carry on state level advocacy, particularly policy advocacy.²³ Most of the remaining freestanding state support programs have survived, although with a few exceptions that have not made up the loss of LSC funds.²⁴

²¹For example, West Tennessee Legal Services has set up one-stop shopping for victims of domestic violence by sharing space with a domestic violence organizations in two of its rural offices. Similarly, Bay Area Legal Services in Tampa, Florida created partnerships with local domestic violence shelters, including placing a full-time attorney at one of the shelters. Another example is the Partnership Project funded by Ford Foundation and involving Legal Services of North Carolina, Legal Aid Society of Hartford, Connecticut and Oregon Legal Services. A final example, Monroe County Legal Assistance Corporation, has contracts with hospitals to provide legal services in conjunction with hospital programs, such as drug and alcohol rehabilitation programs.

²²The quote is from LeAnna Hart Gipson in *Effective Delivery: Rethinking Fundamental Issues*, MIE JOURNAL, Vol. XI, No. 2, November 1997, p. 46.

²³For example: the Arizona Justice Institute; the Colorado Center on Law and Poverty; the National Center on Poverty in Illinois; Project Safety Net in Kentucky; Maine Equal Justice Project; Center for Civil Justice in Saginaw, Michigan; Nebraska Appleseed Center; New Mexico Center on Law and Poverty; North Carolina Justice and Community Development Center; Tennessee Justice Center.

²⁴These include: Western Center for Law and Poverty; Massachusetts Law Reform; Legal Services of New Jersey; Greater Upstate Law Project; Texas Legal Services Center; Ohio State Legal Services; Florida Legal Services; and Michigan Legal Services.

The Project for the Future of Equal Justice is completing a study of state advocacy and support and previously undertook a separate initiative of training.²⁵ The survey revealed that since the demise of LSC funding: (1) some states have preserved and strengthened the capacity for state advocacy, coordination and support; (2) in a number of states, there has been no significant training of staff, information sharing about new developments, state level policy advocacy, litigation support or effective coordination among providers; and (3) in other states, only a few of these activities have been taken up by new entities or carried on by former LSC-funded entities.

Rebuilding a state support system will require new funds, contributions from existing providers of civil legal assistance and, in many states, substantial restructuring of the system. However, over the last several years, there has been significant progress in developing effective state support systems in a number of states. In addition to coordination of advocacy, these new state support systems have undertaken the following activities:

a. Information Dissemination

A critical role of state support efforts involves information dissemination. Several states are carrying out 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.

Several States have also created and maintained an efficient state-of-the-art statewide information dissemination network that includes at least five elements. First is 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. Second is a 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. Third, states have established 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. Fourth, some states have developed a coordinated statewide research strategy integrating Internet usage, on-line services, proprietary sources, and other resources. Finally, a few states have developed a coordinated data management systems to facilitate information sharing and case file transfers.

In addition, many states are convening 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

²⁵The state advocacy study and report will be completed this summer.

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.

b. Coordinated statewide education and training activities

A number of states have made available education and training activities for 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.

A few states are experimenting with innovative training activities that are carried out both at the workplace and outside of the workplace to ensure maximum efficiency and effectiveness. State support entities in a few states are also providing assistance to local providers to ensure development of appropriate local training and education activities and materials. Some states are coordinating with continuing legal education programs offered by state or local bar associations or other entities. Finally, there is a growing recognition among legal providers that they must provide opportunities for staff to participate in national and regional training and collaborations where relevant to civil legal assistance activities of the state.

c. Coordinated statewide civil legal assistance liaison

A number of states are coordinating 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.

6. Ensuring National Coordination and Support for Providers of Civil Legal Assistance

National support has fared better than state support after the loss of LSC funding. Most of the old LSC-funded centers are still in existence and many are doing quite well. Nevertheless, even though many of these former LSC-funded entities remain and other entities continue to provide some support, the reality is that advocates in the civil legal assistance system have less access to support assistance than in the past before the termination of LSC funding. There is less training, fewer manuals and other relevant materials, less information about policy and legal developments and often little capacity to provide immediate and ongoing assistance to local advocates. While national policy advocacy may have suffered the least, there remains less capacity than previously to ensure that the rights and interests of low-income families are represented before Congress and federal agencies. Moreover, there remain gaps in national

advocacy on issues of importance to the poor and lack of training, manuals, information about and assistance on new and emerging issues, such as transportation, assisting low-income welfare recipients in obtaining and maintaining a job, job advancement in the low-income workforce and others. In addition, the national advocacy system is not undertaking sufficient research on new areas and ideas and not providing the civil legal assistance system with demographic and other analyses that will be helpful to them in planning, setting priorities and building a system for a future client cohort that may differ considerable from the client cohort of the past three decades.

The national legal services community is not attempting to recreate the old national support system because there will not be sufficient funds to do so from private foundations, the government or legal services programs. To meet the needs of advocates efficiently or effectively and to have the capacity to meet the gaps in support and advocacy that exist and will increase in the future, the national legal services community working through the Information Management Advisory Group conducted by the Project for the Future of Equal Justice and working in conjunction with the Chicago Kent College of Law Legal Information Needs Project is beginning to build a new system, utilizing modern technology to the fullest to provide training, information, manuals and even advice and strategy assistance.

This new system will be based on an a web-based national “legal advocate resource and information desktop” designed to use the Internet to provide constant on-line access to every advocate in the civil legal assistance communities of advocates. When the system is fully implemented, every advocate will have access to up-to date legal developments, training materials and legal research tools and manuals provided by local, state and national advocacy organizations. This system will integrate state materials developed for particular states by state advocates with national materials prepared by nationally focused organizations including the former support centers and other organizations provided information and resources on low income, civil rights and related community advocacy issues.²⁶

CONCLUSION

The legal services community has begun a long overdue transformation of its structure and work into a new and more effective civil legal assistance system. Even if Congress had not imposed restrictions or reduced funding in 1996, the legal services community needed to create in each state a comprehensive, integrated statewide system of civil legal assistance. This fundamental restructuring was necessary in order to obtain critical new funding, to achieve increased access for low-income people and to improve the quality and effectiveness of the providers of civil legal assistance. It was also necessary in order to build a much broader base of public support for civil legal

²⁶See Richard Zorza, “Meeting the Legal Information Needs of Low and Middle Income People and the Organizations that Serve Them,” a report on a meeting held at the Open Society Institute on May 15, 2000. On file with the author and MIE.

assistance. Moreover, even if LSC funding for support had continued, the civil legal assistance community needed to reshape and revitalize our system of support, coordination and advocacy at the state, regional and national levels. We needed a new system that would ensure that low-income persons were represented in all relevant forums where decisions affecting their lives are made, that advocacy was effectively coordinated within and among states, and that all advocates participating in the system had access to information, training and the assistance they need to provide high quality and effective legal advice and representation to the poor.

This is an exciting time in the legal aid movement in the United States because change is possible and encouraged by key funders including LSC and many IOLTA programs. We have overcome a number of internal barriers to change and not have the opportunity to build a more effective and efficient civil legal assistance system. We will continue without interruption the momentum that has developed in a number of states toward creating an integrated, comprehensive statewide system. States that have not begun serious efforts to change and create this new system will begin to do so. And the civil legal assistance community will continue and substantially increase its efforts to create a new and more effective system of advocacy, coordination and support at the state and national level.

Our overarching goal has been equal justice for all. While we have a long distance to go, we are moving down the path that will some day achieve a civil justice system that guarantees equal justice for all.