

PROGRAM LETTER 98-1

To: All LSC Program Directors

**From: John A. Tull
Vice President, Programs**

Date: February 12, 1998

Subject: State Planning

Summary

This Program Letter calls upon all LSC recipients to participate in a state planning process to examine, *from a statewide perspective*, what steps should be taken in their states to develop further a comprehensive, integrated statewide delivery system. State planners should evaluate whether all programs are working in a coordinated fashion to assure that pressing client needs are being met, that sufficient capacities for training and information sharing exist, that programs are moving forward together on technology, and are collaborating to increase resources and develop new initiatives to expand the scope and reach of their services.

In states with a number of LSC-funded programs and/or the presence of very small programs, a key question to be answered is whether the current structure of the state delivery system, and specifically the number of programs, constitutes the most effective and economical way to meet client needs throughout the state.

The state planning process should develop a report to be submitted to LSC on or before October 1, 1998. We will be guided by your recommendations when making our funding decisions for FY 1999 and beyond.

Background

1995 Program Letter. In July 1995, in anticipation of Congressional action on LSC's 1996 appropriation, we asked recipients in each state to participate in the development of a plan for the design, configuration and operation of LSC-funded programs in the state. In view of potential LSC funding cuts and Congressional restrictions on client services, we were especially

Program Letter No. 98-1
February 12, 1998

concerned that recipients work closely with other stakeholders (e.g., state and local bar associations, IOLTA funders, the judiciary, client groups, non-LSC-funded programs, and others with an interest in legal services) to develop an integrated delivery system to address client needs. A subsequent August 1995 Program Letter outlined the issues and criteria the state planning process should address. Included were integration of LSC-funded programs into a statewide legal services system; advisability of consolidation of programs; consideration of efficient intake and provision of advice and brief service; appropriate use of technology; engagement of pro bono attorneys; and development of additional resources.

Responses to Changes in Laws Affecting Clients and LSC Recipients. Much has occurred since August 1995. Fundamental changes have been made in laws and programs affecting eligible clients -- changes which have increased clients' need for legal information, advice, and representation. At the same time, LSC appropriation measures have resulted in deep funding cuts for many programs, elimination of LSC funding of national and state support entities, and dramatic changes in the range of services LSC recipients are permitted to perform. In response, many states have initiated planning processes, developed new partnerships to leverage resources, expanded funding sources, implemented new technologies, and launched innovative methods for serving clients.

Efforts to develop and strengthen comprehensive delivery systems in order to improve and expand client services continue in many states. Equal Justice Commissions, Bar sponsored committees, and organizations of legal services providers continue to explore ways to maximize services in a changed and changing environment. LSC supports these ongoing state efforts and encourages others.

1998 Grant Decisions. In the 1998 LSC grant competition, we determined that grants in several states that were eligible for three year funding should be made for a shorter period. For North Carolina, grants were made for one year. For New York, New Jersey, Pennsylvania and Virginia, grants were made for two years. The decision to award grants for a shorter period was made for two reasons: (1) to encourage recipients in these states to develop further their plans for a comprehensive, integrated statewide delivery system; and, (2) concern that the number of LSC-funded programs in these states may not constitute the most economical and effective configuration for delivering legal services to the low-income community.

1998 Program Letter. This Program Letter calls upon all recipients to re-examine and adjust as necessary their state delivery plans in order to further improve and expand legal services to eligible clients within the state.

A Comprehensive, Integrated Statewide Delivery System.

In re-evaluating delivery plans, recipients should examine the progress they have made in

**Program Letter No. 98-1
February 12, 1998**

the past two and one half years in developing a comprehensive, integrated statewide delivery system. Careful planning and coordination is necessary to insure that pressing legal needs do not go unmet and that resources are used wisely and economically. States must continue to innovate and develop new strategies and alternative delivery models to make the most of scarce resources -- to reach more clients, and to provide higher quality services through enhanced use of information technology; centralized intake systems providing advice, brief services, and referrals; expansion of community legal education, pro se, and other methods promoting client self-help; better coordination with volunteer private attorneys; and other, similar initiatives requiring substantial resources and expertise to undertake.

There are many ways for states to achieve these goals. Many excellent models exist of statewide fundraising, integrated technology, statewide and regional hotlines, pro se projects, taskforces and training. Recipients should evaluate which approaches will work best in their states to achieve an even stronger, more effective system for addressing client needs.

Recipients must also examine how the present configuration of programs, and specifically the number of programs, impacts upon the overall effectiveness of the state delivery system. In this regard, it is especially important that each participant look at client services, not from the view of just one city, or one county, or one program, but from a statewide perspective.

What Is Required by This Letter

In the past two and one half years, several states have undertaken extensive processes to evaluate their delivery systems and have implemented, or are in the process of implementing, many state planning recommendations. Additionally, some states have ongoing planning processes involving a wide variety of stakeholders in the civil justice system. We do not intend such states to repeat past, or supplant current processes. Instead, we ask recipients to either work within ongoing processes or develop new ones appropriate to the situation in each state. In either case, we hope recipients and other stakeholders will view this process as an opportunity to join together to strengthen the delivery system and improve and expand services to clients.

In this context we call upon each LSC-funded program to share responsibility for ensuring that a statewide planning process, whether ongoing or to be initiated, addresses the questions discussed further below. For each question state planners should:

- **assess the strengths and weaknesses of the current approach;**
- **establish goals to strengthen and expand services to eligible clients; and**
- **determine the major steps and a timetable necessary to achieve those goals.**

**Program Letter No. 98-1
February 12, 1998**

A report should be submitted to LSC on or before October 1, 1998.¹ If a state has recently developed a plan which addresses the substance of one or more of the following questions, for those questions, the state need only report on the pertinent section(s) of that plan.

In exceptional cases, it may not be possible for a state planning process to fully address all of the following questions. In such cases, recipients should contact the LSC staff member responsible for their state.

The questions to be addressed are:

- 1. How are intake and delivery of advice and referral services structured within the state? What steps can be taken to ensure a delivery network that maximizes client access, efficient delivery, and high quality legal assistance?**
- 2. Is there a state legal services technology plan? How can technological capacities be developed statewide to assure compatibility, promote efficiency, improve quality, and expand services to clients?**
- 3. What are the major barriers low-income persons face in gaining access to justice in the state? What efforts can be taken on a statewide basis to expand client access to the courts, provide preventive legal education and advice, and enhance self-help opportunities for low-income persons?**
- 4. Do program staff and pro bono attorneys throughout the state receive the training and have access to information and expert assistance necessary for the delivery of high quality legal services? How can statewide capacities be developed and strengthened to meet these needs?**
- 5. What is the current status of private attorney involvement in the state? What statewide efforts can be undertaken to increase the involvement of private attorneys in the delivery of legal services?**
- 6. What statewide financial resources are available for legal services to low-income persons within the state? How can these resources be preserved and expanded?**
- 7. Where there are a number of LSC-funded programs and/or the presence of very small programs, how should the legal services programs be configured**

¹ LSC will provide guidance at a later date on the format for this report.

Program Letter No. 98-1
February 12, 1998

within the state to maximize the effective and economical delivery of high quality legal services to eligible clients within a comprehensive, integrated delivery system?

1. Intake and the Provision of Advice and Brief Services.

How are intake and delivery of advice and referral services structured within the state? What steps can be taken to ensure a delivery network that maximizes client access, efficient delivery, and high quality legal assistance?

A successful intake system is critical to effective and comprehensive delivery of legal services. Over the past two years many programs have instituted centralized telephone intake and delivery systems which provide high quality advice and brief service assistance, and promptly refer clients whose problems require more assistance to program case handlers or other resources. In a number of states, statewide or regional systems, using advanced telephone and computer technology, have consolidated these functions in one location where trained, experienced staff provide prompt access for clients and minimize the risk of multiple referrals or loss of clients. These systems improve the quantity and quality of advice, brief service and referral assistance while increasing the number of extended service cases which can be handled by the program.

State planners should evaluate the current status of intake and delivery of advice and referral services within the state and develop strategies for improvement. Consideration should be given to developing regional and statewide intake and delivery systems which:

- Are client-centered, providing ease of access to legal services and prompt, high quality assistance or referral;
- Use specialization to enhance case evaluation and provision of advice, brief service and referral assistance;
- Make effective use of technology; and
- Provide oversight and follow-up to ensure high quality legal services and client satisfaction.

2. Effective Use of Technology.

Is there a state legal services technology plan? How can technological capacities be developed statewide to assure compatibility, promote efficiency, improve quality, and

Program Letter No. 98-1
February 12, 1998

expand services to clients?

Within individual programs, effective use of technology can reduce the cost and substantially enhance the quality of services. Collectively, technology can dramatically improve the capacity of staff throughout the state to quickly exchange and share information, improving their ability to stay current with the law, develop legal strategies, write briefs and otherwise serve clients. In the past two years, many programs have significantly increased their technological capacities. On a statewide level, programs have used new technologies to establish E-mail communication with all legal services staff throughout the state; to connect with other service providers; to exchange information with private attorneys participating in PAI efforts; to establish centralized brief/pleadings/forms/manuals/ information banks; to create resource centers for information on state law and policy developments; and to establish unified case management systems which allow for data collection and outcome measures. New technologies involving the Internet and advanced telephone and computer applications have also been used to provide legal and program resource information to clients.

Improving and staying current with technology is costly and makes it all the more important that states take a unified approach and develop a technology plan that will maximize collective capacity while minimizing cost. A state technology plan should establish reasonable goals and set forth steps to:

- Assure that all programs have networked computer access for all staff; integrated case management; computerized timekeeping; E-mail and the ability to electronically transfer documents; computerized financial management systems; and technological support;
- Develop or improve compatible technological capacities which will allow all staff, *statewide*, to communicate with each other, share information, and take advantage of other efficiencies made possible by computerization; and
- Use new technologies to provide legal and program resource information to clients and other interested persons.

3. Increased Access to Self-Help and Prevention Information.

What are the major barriers low-income persons face in gaining access to justice in the state? What efforts can be taken on a statewide basis to expand client access to the courts, provide preventive legal education and advice, and enhance self-help opportunities for low-income persons?

Pro se, community legal education and access to courts efforts have great potential to

Program Letter No. 98-1
February 12, 1998

address many of the legal needs of low-income persons. Programs in many states utilize these methods to increase legal information available to the public, empower clients to advocate on their own behalf, and increase access to the courts for all low-income people. Given the intensive effort required to implement such strategies, and the influence state laws and rules have on such initiatives, often these results can be realized more easily by coordinated state level efforts. In several states, for example, collaboration with state bar committees and state judicial administrations has resulted in rule changes, publication of pro se oriented materials and more accessible court systems. Likewise, the development of self-help and community legal education materials has benefited from concerted statewide efforts involving a variety of organizations working to make justice more accessible.

State planners should evaluate the status of pro se, community legal education, and access efforts in their state and determine what steps should be taken statewide to enhance their effectiveness in meeting client needs. Consideration should be given to:

- Statewide coordination and/or production of pro se and community education materials, such as brochures in multiple languages, videos, cable-access TV programs, and projects designed to take advantage of new technologies such as computerized pro se programs and the world wide web; and
- State level initiatives, including efforts with bar associations, the judiciary and other interested parties to increase access to the courts.

4. Capacities for Training and Access to Information and Expert Assistance.

Do program staff and pro bono attorneys throughout the state receive the training and have access to information and expert assistance necessary for the delivery of high quality legal services? How can statewide capacities be developed and strengthened to meet these needs?

In the last two years several states have developed new or strengthened existing capacities to ensure that staff and pro bono attorneys throughout the state receive necessary training and have access to information and expert assistance essential for the delivery of high quality legal services. These states employ a variety of methods to provide staff and pro bono attorneys with training on substantive law and skills development, practice manuals and related poverty law materials, information on poverty law developments and strategies, and co-counseling for less experienced staff and pro bono attorneys. Communication, planning and ongoing discussion concerning major legal needs, poverty law developments, effectiveness of approaches, and commonalities in legal work, helps ensure productive use of resources. The use of new technologies has helped maximize the effectiveness of these efforts.

Program Letter No. 98-1
February 12, 1998

State planners should evaluate current capacities for the provision of training and related services essential for the delivery of high quality legal services. Planners should:

- Assess how a statewide approach can address the needs for these services of staff and pro bono attorneys throughout the state; and
- Determine the steps necessary to provide these services as effectively and efficiently as possible.

5. Engagement of Pro Bono Attorneys.

What is the current status of private attorney involvement in the state? What statewide efforts can be undertaken to increase the involvement of private attorneys in the delivery of legal services?

In the past two years, several states have been successful in enlisting or re-enlisting the state Bar, the judiciary and others in developing and supporting private attorney involvement throughout the state. These efforts have helped local private attorney involvement programs expand participation rates and the range and types of services available to clients. State planners should evaluate the current status of private attorney involvement in the state and consider how statewide strategies can increase engagement of pro bono attorneys and benefit clients throughout the state, including areas of the state with lower private attorney involvement.

Consideration should be given to:

- Renewed efforts to involve the Bar, the judiciary and other leaders in the legal community in promoting private attorney involvement;
- Providing greater opportunities for attorney participation in a full spectrum of legal work, including advice and brief service, negotiation, administrative representation, pro se classes, transactional assistance, and simple and complex litigation;
- Providing greater opportunities for attorneys to assist programs with training, co-counseling and mentoring staff; and
- Providing greater opportunities for law schools, corporate counsel, government attorneys, and other professionals to engage in pro bono activities.

6. Development of additional resources.

Program Letter No. 98-1
February 12, 1998

What statewide financial resources are available for legal services to low-income persons within the state? How can these resources be preserved and expanded?

In the past two years, many programs have increased the resources available to them through innovative grant projects, local fundraising and other efforts. Even more dramatic, however, are the increases programs have received in many states through collective development and/or expansion of statewide revenues such as state appropriations, filing fee surcharges, state fundraising campaigns, state bar dues checkoffs and direct state bar grants. Whether new or expanded, these revenues have almost always been the product of thoughtful planning with programs and other stakeholders working together.

State planners should evaluate the possibilities for further statewide resource development and develop a statewide strategy to preserve, build, and/or create new financial and non-financial resources in their state. Since program efforts to build such statewide resources are more successful when many stakeholders participate, it is especially important for planners to involve a variety of community leaders in these efforts.

7. Configuration of a Comprehensive, Integrated Statewide Delivery System.

Where there are a number of LSC-funded programs and/or the presence of very small programs, how should the legal services programs be configured within the state to maximize the effective and economical delivery of high quality legal services to eligible clients within a comprehensive, integrated delivery system?

In most states, the present delivery structure reflects national funding decisions made in the 1970's. In many states, those decisions were not determined by analyses of what delivery structure would yield the most economical and effective services to clients throughout the state. Moreover, those decisions were made before such major developments in legal services delivery such as IOLTA funding, private attorney involvement, law school clinical programs, hotlines, the emergence of other civil legal aid providers, and restrictions on recipients' non-LSC funds; and before the information revolution and the opportunities it presents with personal computers, E-mail, sophisticated telephone technology, and the Internet. In light of developments over the past twenty-five years, and especially since 1995, it is time to take a fresh look and re-evaluate those structures.

Re-evaluation is particularly critical in states with a number of LSC-funded programs and/or the presence of very small programs. States with many programs often suffer from uneconomical and inefficient redundancy of effort, or no effort at all, in technology, training, fundraising, and development of client services such as intake, advice and referral systems or client education materials. Similarly, small programs often lack the resources necessary to develop proper staff supervision or appropriate specialization, or to acquire current technology

Program Letter No. 98-1
February 12, 1998

necessary for maximum effectiveness.

In addition, while individual programs may excel, a large number of programs or the presence of small programs may result in unnecessary diversion of the state's resources from client services to administrative overhead. Each program, no matter how large or small, must devote significant resources to A-133 audits, state and federal tax and wage reports, funding applications, recordkeeping, personnel policies, purchase and maintenance of technology and equipment, and other administrative tasks. Experienced and accomplished lawyers spend time on program administration when they could be using their talents to represent clients, train or mentor new lawyers and otherwise lead their program's legal work.

Where these conditions exist, state planners must consider whether consolidation of programs would make better use of resources available in the state.

There is no magic number of programs or a single delivery model that fits all states. In some states, a statewide LSC provider makes the most sense; in others, a regional approach or other configuration may be appropriate. Each state must examine what configuration, *from a statewide perspective*, maximizes services and benefits for *clients throughout the state*. Factors to be considered include:

- Size, complexity, cultural and ethnic diversity/homogeneity of client population.
- Geographic, physical, and historical distinctions and affinities within the state.
- Variation in local client needs and ability to respond and set priorities accordingly.
- Assessments of programs' performance and capacity to deliver effective and efficient legal services in accordance with LSC and other professional criteria.
- Ease and efficiency of client access to services and opportunities for improvement.
- Capacity to efficiently and effectively conduct community legal education, pro se and outreach activities.
- Level, uniformity, and plans for further development of technological capacity.
- Current levels of private bar involvement and potential for expansion.
- The availability of training, expert assistance, and information about legal developments.
- Current funding sources and potential to expand resources available to all programs.
- Cultural and ethnic diversity of program leadership and management.
- Relative costs associated with fiscal and administrative responsibilities and potential savings in management, board and administrative costs.

In making grants for FY 1999 and beyond, we will look closely at each state where there

Program Letter No. 98-1
February 12, 1998

is currently a number of LSC-funded programs and/or the presence of very small programs to assess whether careful consideration has been given to consolidation of LSC programs. We hope, and have faith, that in these states, this planning process will result in plans for merger and consolidation of programs and integration of services on a broader scale than we have previously seen, and that each state's plan will result in a configuration that is efficient and effective in providing access to justice for the state's low-income clients.

Questions

LSC staff will be contacting recipients to discuss this Program Letter. In the meantime, if you have questions, please contact the LSC staff member responsible for your state.