

**COMMUNITY LAWYERING**

**THE NEW FORM OF CLIENT IMPACT**

**WORK**

**FOR LEGAL SERVICES ADVOCATES**

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## INTRODUCTION

Among the legal community, there is great debate regarding the emergence of Multidisciplinary Practices (MDP's) Within Legal Services, I prefer to call it Community Lawyering. What both of these terms have in common is looking at different and new methods of meeting community needs. There are now discussions beginning within the criminal defense bar, which also look at new methods of determining needs.

This new debate began initially outside of the legal services context, with collaborations between Certified Public Accountants, physicians and lawyers. The question arose, should ethics rules allow CPAs to have lawyers on staff or vice versa. This would be of great benefit in business law. However, current rules against profit sharing would have to be amended.

Similarly, within the criminal context there is a discussion regarding the needs of that client community. In the past, the goal of a defense attorney was to obtain the least restrictive alternative for the client. The goal was to get less incarceration time, less probation time, etc. With drug offenses constituting a huge percentage of criminal cases, the question arises as to what is actually best for the client. Maybe we should be advocating for treatment alternatives, in sufficient amount, scope and duration to give clients a chance at rehabilitation.

Within the legal services community, these new alternatives have not yet been discussed at length. The closest term used is that of "Community Lawyering". (See [www.communitylawyering.com](http://www.communitylawyering.com)) This paper suggests that it is indeed past time for the legal services community to embrace the issue of community lawyering. It is time for us to leave tradition behind and embrace the full range of client community needs.

## **COMMUNITY NEEDS**

The issue of community needs is a new one for many legal services offices. For years we have responded to individual client needs as opposed to community needs. When we move to a broader definition, we look to a client group or, in the past, a class of persons. While the legal services community has not responded to these broader community concerns, congress has addressed them in a least one instance. This does not suggest that we do so without input, but that we accept direction from community surveys, social service agencies or other areas of legitimate indications of client need.

Sometimes the legal needs of a community may be in conflict with the legal need of individuals. Within public housing, for example, there has long been a conflict between the individual and the community. If we have a unit, occupied by a person involved in drugs, legal services in the past would represent the individual accused of drug activity in order to maintain their residence in the public housing complex. However, the community of residents, eligible clients, would prefer to have the person removed. They would prefer the absence of drug activity in their housing complex, or neighborhood. Most members of the legal services community were not in favor of this restriction. However, Congress sided with the community, and prohibited legal services from representing persons charged with drug offences in public housing, when the basis for the eviction is the illegal drug activity.

This conflict between individual and community needs is a real one, which has large effects on the client community. The legal services community should enter this debate in order to assure that all the inherent issues come to the surface.

## TEN CASE STUDIES

Legal Services of Eastern Michigan (LSEM) has been moving forcefully into the area of community lawyering. In each of the following instances, LSEM is responding to needs of the greater community as opposed to those of individual clients.

**1. Water Edge Crossings Housing Development** - The north end of Flint is a racially impacted area consisting of dilapidated housing. The need for adequate and affordable housing has been reaffirmed by every housing study conducted in the area. LSEM began a process of pulling together partners to create low income housing within the area. After two years of advocacy with the City of Flint, the Flint Housing Commission, local foundations, community groups, politicians, and local non-profits, LSEM was able to obtain 110 acres of riverfront property for a low-income housing development. Instead of representing tenants in sub-standard housing that they cannot afford, we are moving toward creating safe, affordable housing, on a pristine section of prime riverfront property. After two years of putting together collaborations and partnerships, LSEM formed a non-profit organization, Water Edge Crossings, to act as one of the major players in planning the 400-unit housing development. It is this non-profit that will receive the acreage upon which the development will be established.

**2 Retail Development** - Within the same 110 acres of land, LSEM is also dedicating space for a retail development. These businesses will provide services long absent from the north end of Flint. Within an eight-mile radius, there are no grocery stores, Laundromats, fast food establishments, or pharmacies. This is true even though the area borders the premier park in the county. Marketing studies indicate a huge demand that these services be made available to the over 30,000 low-income persons who live in the area. The area has been

designated as a federal empowerment zone. Ten to fifteen acres of the development parcel will be dedicated to this retail development.

**3 Fair Housing** - Two years ago, LSEM opened a Fair Housing Center in Flint. Flint is one of the most segregated cities in the country, and had never had a fair housing center. The scope and depth of the problem was well documented in the “ Impediments to Fair Housing Study” conducted by Dr. Joe Darden for the City of Flint and Genesee County. Unlike traditional legal services or fair housing centers, LSEM is proceeding with survey testing, without complaints. Over 200 paired tests were completed in 2000. After two years of operation, we have discovered a number of interesting facts. First, 40% of all apartment complexes tested in 2000, showed evidence of discrimination. Second, 100% of realtors tested showed evidence of discrimination. Third, of testers subject to discrimination, less than 4% would have known they were being discriminated against in the absence of the testing. This explains the low number of complaints received (30), despite over \$13,000 of radio advertising done to increase awareness of the problem and the Center’s services. Because these tests have documented the problem in a compelling manner, they have motivated governmental officials from the City of Flint, smaller municipalities, and County government to partner with LSEM in addressing fair housing. LSEM is also now proceeding on behalf of the community to attempt to obtain remedial action against violators.

**4 Child Care Centers** - In needs studies for low-income persons, one of the greatest needs identified for our client community is that of childcare. However, no client ever complains about the lack of childcare as a legal problem. LSEM has worked in conjunction with the Flint Housing Commission, HUD, Four C’s, Capital Community Development Corporation, Michigan State University Cooperative Extension, the Kellogg Foundation and

others to establish 15 child care centers for low-income persons. All of the centers also offer job opportunities and preferences for low-income persons in hiring and training.

**5 Home Repair – Inspections** - LSEM in conjunction with the City of Flint is currently investigating how legal services advocates can work with City Government to obtain orders of repair requiring owners of low income rental housing to repair their homes. In the past, LSEM has obtained such orders for specific clients, however, if the client moves or settles their case, the order is vacated. Under this new plan, LSEM will represent both the client and the City for the purpose of obtaining repairs. If the client abandons the case or vacates the property, LSEM would be empowered to enforce the order to repair on behalf of the City. This strategy will improve the housing stock for low income housing throughout the city and assists the community as a whole. (The City waives any conflict of interest.)

**6 Property Tax Reversions** - The Genesee County Treasurer, in conjunction with LSEM, has adopted a new plan to assist persons who are about to lose their homes due to failure to pay property taxes. Under this plan, LSEM will be hired to serve notices of deficiencies. However, at the same time, LSEM will work with homeowners to process applications for poverty exemptions for future taxes, and investigate defenses to back taxes. LSEM has worked with local banks to develop a number of low interest loan packages to pay back taxes if owed. The banks also have agreed to waive many of the normal costs, including surveys, title searches etc. in order to help homeowners stay in the homes. The Treasurer has agreed to a one-year adjournment for any qualifying person to allow time to get the loan package in place.

This effort and plan was worked out in response to a new statute allowing tax reversions to be foreclosed in a three year period as opposed to the previous seven year

period. This advance planning by all partners will allow the County Treasurer to positively address the issue as soon as the new statute becomes effective in 2002. Again, although no individual client requested this service, it is expected that hundreds of homes will be saved each year under the program.

**7 Elder Abuse** - Years ago, LSEM had an elder abuse client, confined to a wheelchair. Her relative caretaker cut up the wheelchair with a chain saw, while she was in it. He did so to scare her. Such incidents of frightening her were frequent. LSEM offered to provide the typical legal services response, injunctions, etc. The firm was confident that it could have the perpetrator removed on a moment's notice. However, the client terminated our representation because we could not provide for meals (three week waiting list), chore services such as assistance in the restroom, (two week waiting list), medical assistance with medications, (two week waiting list), and other services that the abuser had been providing.

Although the client withdrew from representation, LSEM recognized a community need. We have since organized a community emergency response team, which will provide client services on a moment's notice, without regard to lengthy eligibility determinations. This makes it possible to remove perpetrators of abuse while still ensuring that seniors have their survival needs met. Over thirty agencies are now members. The group has just published a 68-page manual of services available, distributed throughout the community.

**8 Substance Abuse Outreach And Prevention** - A river splits the City of Saginaw. The West Side is affluent and primarily white. The East Side is primarily poor and minority. Recently, all drug prevention money was shifted from East Side providers to a single West Side provider. The West Side provider maintains only 9-5 hours, will not provide prevention intervention to children without parental consent and requires a statement that the parent(s)

are drug free. Treatment centers are now suffering because of the lack of referrals. (Treatment and Prevention are separate) LSEM is now working with a coalition of agencies to provide outreach services and prevention services to the East Side of Saginaw. This is a community need.

**9 Fundraising As Advocacy** - Legal services programs bring many skills to the community. One of those skills is (hopefully) fundraising. LSEM assists other agencies in raising funds to meet community needs. The examples are numerous. LSEM initiated the idea of a childcare center for the Flint Housing Commission, and assisted in writing a \$230,000 grant for the establishment of a child care center. The firm also assisted in pulling together the coalition of supportive agencies that provided their services at no cost. LSEM brought the Resource Center, the local information and referral agency, into the planning and provision of services process for the new Courthouse Justice Center that LSEM is assisting in designing. LSEM is also assisting in raising funds for that project. LSEM assists other service providers in raising funds for numerous communities needs.

**10 Research As Advocacy** - LSEM has begun to establish a new division in social science research. LSEM has been hired to conduct research on a variety of poverty-related issues, e.g. a study of the extra-judicial mediation process as it relates to resolving housing needs of the poor, a study of how transportation needs of the poor impacts their ability to move out of poverty, a study on impediments to housing for the disabled, housing needs of seniors, discrimination by financial institutions, and similar projects. Each of these projects not only tries to identify the existence of a problem, but suggest solutions as well. These are attempts to meet community needs, without a client. However, the activity is based on client needs.

## COMMON FACTORS OF CASE EXAMPLES

A. **No Single Client** - In each of the case examples listed above, there were no clients at the initiation of the project. In some, there are never any direct clients. The community is the client. In a recent peer review, LSEM was criticized for undertaking projects without clients. It was suggested that “Clients don’t need lawyers deciding what they need.” This traditional view would prevent many problems from ever being addressed. It also limits the ability to act proactively on behalf of the community. Finally, it ignores the fact that many of these projects are the result of client needs assessments. Those needs assessments may be called marketing studies, and may be done by other agencies or governmental units. This does not mean they are not a valid source for determining the needs of the client community. Legal services cannot continue to be insular, and respond only to client requests. Instead, as legal services providers, we must respond to the issues being raised about what needs exist in our client community.

No client group suggested the establishment of a riverfront housing development. Once the opportunity presented itself, LSEM worked for two years to make it a reality. We then established a client group to assist in planning the development. No client or client group came to LSEM suggesting the need for a retail development on the north end of Flint. The need was obvious, and market studies confirm the need of the client community.

LSEM’s Fair Housing work has shown that clients can not recognize or complain about discrimination. It is too well hidden. That does not mean that Fair Housing work to end discrimination is not necessary for the client community. It does, however, demonstrate how a significant client need would go unmet unless an agency responds to the community rather than an individual complaint. The need for affordable childcare has been well established

in numerous surveys measuring the impediments to work. However, no one sees the lack of accessible childcare centers as a legal problem. The funding and creation of a center is accomplished through work with other agencies. Once funded and established, LSEM assists the low-income operators of the centers with zoning, incorporation, taxes and similar legal problems. The home repair program is a classic instance where we work without a client. In this case, clients abandon cases, because they are evicted, move, or are bought off by a landlord. In this instance LSEM would continue with the case on behalf of the City to ensure that repairs are made. This improves the housing stock for low-income housing and helps the entire low-income community meet its housing needs. The property tax reversion project will not become effective until 2002, when the new statute becomes effective. No client is currently affected, and in fact, probably no client even knows the change will be coming. Part of the project involves educating those who are most likely to be affected. To help in such educational programming, LSEM has already prepared pamphlets in both English and Spanish. Elder abuse is an area that is kept secret by the victims. Because perpetrators are most often relatives and/or caretakers, it is most difficult to identify and address the issue. Unlike children, abused seniors often do not get out in the public view. The creation of an Emergency Response Team assists not only in combating abuse when found, but also in locating the abuse. The area of drug prevention is one where work involves finding clients and giving them the option of treatment. By definition, one can't wait for clients. Similarly, raising funds for other agency activity is not done on behalf of clients. Rather it is done for other agencies that serve the client community. The priority is benefiting the entire community.

**B. Community Needs Are Determined Based on Community Input** - In each of these cases, community need is substantiated by input from the community. Most often, others conduct the research documenting a community need. Examples include Dr. Darden's Fair Housing Study, marketing studies, housing quality studies, impediments to work for Welfare recipients etc. In some instances need is substantiated by direct experience. (See Elder Abuse, above.) Even then, it is most often substantiated by input from others. For example, in the case of elder abuse, LSEM relied on reviewing the experience of agencies on aging, senior centers etc. to identify and document need.

Each of the examples also comes from an intense "listening" to the community. Community lawyering does not ask, "What happened?" Community lawyering asks, "What is happening?" LSEM advocates should not be doing "speaking engagements", as much as they should be undertaking "listening engagements". This listening experience is not limited to clients. We must listen to other agencies as well. They hear of problems that LSEM does not hear about, as people do not think of them as legal problems. However, our job is not to solve legal problems alone, our job is to use our skills and resources to address any problem that causes low-income people to be trapped in poverty.

**C. Multiple Community Collaborations** - Each of the examples discussed involves multiple agencies. We no longer can address the problems of the community as purely legal. Our clients' problems are multifaceted. So it takes the involvement of multiple actors and multiple agencies to resolve them. Collaborative efforts are the rule rather than the exception.

## **IDENTIFYING CLIENT NEEDS AND COMMUNITY PARTNERS**

When dealing with the community, it is important to have a goal, which is identified by true client needs. In the traditional legal services context, the individual client identifies and controls the litigation or other advocacy. With community lawyering, the identification of needs are not as controlled. Rather, needs are identified not to provide individual needs or wants, (I want an affordable child care center, here, for my child), but in a manner that identifies community needs (we need affordable child care that is accessible) The request becomes not, “I want you to get me a house on the river”, but rather, “We need high quality low-cost housing for low-income persons”. We then look for the opportunities to promote solutions to meet that need. The identification of client needs can come from outside resources. The City of Flint and Genesee County spent over \$200,000 for the “Impediments to Fair Housing” study. There is no need to expend additional funds to repeat such a study. Once identified, community lawyering requires that the talents of a legal services program be used to meet the identified need.

Community lawyering requires that legal services advocates be involved in the community. In some instances, that does not mean being involved with clients directly, but rather with other professionals or agencies that are involved with clients. Clients who need outreach for drug prevention or rehabilitation are not going to contact legal services offices. We must respond to the need of the professionals or agencies that provide these services. The issue of where and with whom those collaborations should be built is based upon working with the local community. LSEM works with many agencies that it regularly sues. LSEM works with other businesses that would normally run from us, because we sue them. However, even though LSEM brings actions against local banks for mortgage foreclosures, it

can still work with them to provide low interest loans for victims of property tax reversions. In fact, it makes it easier for the firm to obtain negotiated results in other cases. Even though LSEM represents tenants against the public housing authority, the two agencies work together on establishing childcare centers or writing grant applications for development projects.

LSEM has a sister agency Center for Civil Justice (CCJ) which does restricted activities within the service area of LSEM. CCJ has organized Agencies and Community Concerned about Economic Self-Sufficiency (ACCESS) groups. These agency collaboratives result in networks that can greatly influence community leaders. Recently, they were able to convince a conservative legislator to sponsor a bill to establish a non-profit organization that will train the chronically hard to employ in an actual restaurant setting. CCJ's effort was successful in funding the project. LSEM then worked with the collaborative to assist in this economic development project. LSEM's relationship with CCJ provides another vehicle for identifying needs of the low-income community and a body of work that should be addressed to positively impact the lives of this population.

To date, the Legal Services Corporation (LSC) has not promoted community lawyering. As has been pointed out earlier (see attached article on case counting), the activity that is counted determines what activity is undertaken. LSC should revise its policies to promote community lawyering. Of all the projects listed above, which assist over 200,000 persons, LSEM counts approximately 15 cases to date.