The Human Side of Scarcity:

A Case Study

by Tom Pipal & Lorna Blake

May 1981

Prepared for the Legal Services Corporation
Delivery Research Unit

The setting of this case study is a predominantly rural legal services program which serves a poverty population of some 66,200. In 1979 the program had seven offices and a total staff in excess of 50. Historically, the program had paid extremely low salaries. It therefore managed to "stretch" its dollars among a staff larger in number than would normally be expected. This state of affairs reflected the prevailing philosophy of the executive director. Namely, that working for legal services was akin to working for VISTA or other such programs and that staff expected to be paid wages significantly less than what might otherwise be expected. In this way, the program provided the "most" services for the money.

This attitude and philosophy had been bolstered by the relatively plentiful money available during the expansion years. The program had started with four counties and grown to seven within the last three years. Further reinforcing the tendency to over expand the staff was the fact that all seven counties had relatively strong client groups which pressured the program for an active presence in each county. By the end of the 1978, the program had a $40,000 deficit; and even with some economizing measures in place, this grew to $80,000 by the end of 1979. To further exacerbate the situation, some non-LSC sources of funds began to dry up about this time.

The Program's Response

By mid-1979 it was clear that the only possible action the program could take was a drastic reduction in staff. But rather than lay-off individuals, the program relied on voluntary attrition with a modified hiring freeze. Because the financial plight of the program was known by staff, this policy proved at least marginally effective. By May 1980 over 20 people had resigned which reduced staff size to approximately 30. It also had the very undersirable consequence of reducing the experience level of the staff substantially. All three managing attorneys resigned; so did the executive director and, subsequently, the program's administrator. The program also closed four of its seven offices.

And in the midst of all this turmoil, the program's contract with its union came up for renegotiation. Not unjustifiably, the union's position was that, given the large reduction in staff size and the closing of the offices, the program could now afford to pay more competitive salaries. There was also the strong possibility of an increased work load for all staff members. In the absence of a permanent executive director, (and therefore a well defined management position) the union negotiated directly with the Board of Directors and ultimately signed a two year contract which included substantial salary increases for all staff. While the percentage increase was indeed large, it should be pointed out that the final salary levels were not out of line with the average legal services salaries for the region.

In April of 1980, a new permanent executive director was named. With the help of the Regional Office, he completed a plan to reduce the program's deficit and eliminate it over a three year period. To help with the transition, the Regional Office gave the program a special needs grant under the condition that they stick to their deficit reduction plan. With a sign of relief, everyone settled in under the assumption that the program was back on an even keel at last. This long awaited "return to normalcy" didn't last long.

The Came '81

As part of the '81 Refunding Applications Process, the new executive director began working on 1981 budgets during September. In doing so, he discovered that although the program was indeed keeping to its plan to reduce the deficit by approximately $40,000 during 1980, the pattern totally reversed itself for 1981. Rather than reducing the deficit another $20,000, and additional $120,000 deficit would be created!

The executive director didn't understand what was happening and had a hard time believing it. But as he checked and rechecked the figures, he became convinced that his calculations were correct. The new deficit came from three sources. First, the two year union contract negotiated in late 1979 included substantial cost of living increases for staff. To help the program over its financial hump, the union had agreed to only a 3% increase from 1979 to 1980. But for 1981, the increase was scheduled to be 12%. This, in combination with step increases for staff, resulted in real dollar adjustments which averaged in excess of 20%. In order to keep some salary differential between "management" and "labor" the executive director planned to give the managing attorneys raises equivalent to the average percentage increase to all staff.

Second, between May and September 1980, another three staff members had resigned, so the program saved their salaries. The plan had been to replace these individuals as well as to put the program's present Reggie on staff once her grant ran out, adding $60,000 to the total projected 1981 deficit.

Finally, the program manager simply had not grasped the implication of the fact that the cost-of-service adjustment for 1981 from LSC would be no more than six or seven percent and that this adjustment would be on the program's annualized funding level for 1980 - not on the total funding.

So What Do We Do Now?

In October, the executive director requested assistance from the Regional Office in attempting to formulate long range plans for the program. In particular, the emphasis was to be on developing revenue and expense estimates for the program for the next three or four years and to determine what staffing levels the program could afford under different sets of assumptions. Subsequently, a Regional Management Specialist and another member of the Office of Field Services staff visited the program for two days to help prepare these estimates and to discuss their implications with program staff and members of the Board of Directors.

The first task was to develop estimates of revenue from LSC over the next four years. While not absolutely certain at the time, an annualized increase of 6% for 1981 seemed reasonable to assume. For 1982 through 1984, estimates based on increases of 0%, 3%, and 5% per year were computed.*

Table I shows these figures.

Table I: LSC Revenue Estimates '81 through '84

Year	% Increase	Amount
1981	6%	$626,171
1982	0	626,171
	3	644,956
	5	657,479
1983	0,0	626,171
	3,3**	664,304
	5,5	690,352
1984	0,0,0	626,171
	3,3,3	684,233
	5,5,5	724,869

**Reflects a 3% increase in 1972 and a 3% increase in 1983 (626, 171 x 1.03 x 1.03 = 664,304); other entires similarly computed. As is obvious, this table does not reflect all possible funding levels but rather the low, middle and high number for each year.

The second step was to determine how many full time staff could be supported at each funding level. This was accomplished by setting a "Personnel Target" of 74% of

*At the time those seemed like conservative estimates.

the LSC grant amount and then dividing the PT by the average cost per staff member. In 1981 this amount was $19,634. For subsequent years, it was assumed that this number would increase by 12% annually. These estimates are shown in Table II.

Table II: Number of Staff Affordable for LSC Basic Field Grant

	Total LSC Grant	Personnel Target	Average Salary	# Staff
1981	$626,171	$463,366	$19,634	23.60
1982	626,171	463,366	21,990	21.07
	644,956	477,267	21,990	21.70
	657,479	486,534	21,990	22.13
1983	626,171	463,366	24,629	18.81
	664,304	491,585	24,629	19.96
	690,352	510,860	24,629	20.74
1984	626,171	463,366	27,584	16.80
	684,233	506,332	27,584	18.35
	724,869	536,403	27,584	19.44

Based on this analysis, it became evident that even under the "best case" assumptions of a 6% increase for "81 and 5% increases each year thereafter, the program was faced with reducing staff by approximately 1.4 positions per year. In addition, these estimates were based on the average cost per staff member. In all probability it would be the lower paid staff member in each job category that would be laid off first; this would necessitate even a greater reduction in staff size. And under the zero growth in funding assumption, staff size would have to decrease by at least two and a third positions each year.

The Alternatives

Because the program expected to receive approximately $100,000 in court awarded attorney fees during 1981, it had a number of options open to it. While a portion of this money had been earmarked for deficit reduction, the rest was available to help soften the blow of the budget crunch. But what was the best way to do this?

The most obvious solution was to use these funds to continue to pay staff salaries. Under this alternative, no staff would be laid off until '82, and by then other sources of funding might be found. The major problem with this approach is that if those "other" sources are not found, and if they don't provide at least $80,000 in annualized funding in '82, and if that amount doesn't increase 10% - 15% per year thereafter, the program will again face the need for a major reduction in staff. And then there are potential "strings" associated with such funds and the cost of administering them, and ...

A second alternative was simply to let nature take its course, to reduce staff size as slowly as possible within budgetary constraints, to rely on attrition and the occasional layoff, and to allow the program to gradually shrink year by year. The additional funds could be used to help in the transition period to pay unemployment claims, perhaps to help former employees find new jobs, ultimately to cover the cost of closing one or more of the program's three offices. Such a plan would work. But the costs to the program, in human terms, would be high. Use of the attrition strategy, as the program's recent history demonstrates, would almost surely result in the program losing its most experienced and productive staff. And gradual layoffs over a three or four year period, with the axe continually about to fall, would hardly be conductive to the productivity of organization members. The approach would also limit the program's ability to pursue long-term objectives and probably requires that a reassessment of priorities be done on a more frequent basis. And if attrition is the major staff reduction strategy, investment in staff development becomes of limited value.

A third, more drastic alternative was also possible. The program could reduce staff immediately to the 1982 level of approximately 21. By doing so, the funds saved during 1981 could be used to maintain that staff size during 1983. If additional funding were found, the staff size might even remain constant for 1984 and beyond. The revenue from attorney fees could then be used for capital acquisitions (such as the purchase of a building or automobiles) which would limit future non-personel expenditures. The savings could also be used to maintain staff size in the future. The negative side, of course, is that four people would have to be laid off in the very near future.

The Human Side of Scarcity

Which alternative would you choose? Before you answer, remember that you're a "new" project director who came from a different program, that the staff size has literally been halved within the last twelve months, that there are significant outside pressures on the organization, that in a rural area at least some of the individuals laid off would probably have a very difficult time finding new jobs, and that you've got a fairly able union to deal with. Remember also that your managing attorneys are new and were members of that union not too long ago. And finally consider the fact that you've never had to lay off anyone before.

Is the first alternative really so irresponsible? You might be able to find more money. You could certainly try. And even if you failed, would the program really be worse off? Four layoffs now, six then. and what about simply letting the program shrink gradually? No one could really fault you for living within your budget. Normal attrition might take care of everything; or if worse comes to worse, a single layoff from time to time would'nt be as hard to take as another abrupt 15% cut in staff size. Why even consider alternative three?

To answer this question requires a re-examination of the first alternative in light of the program's recent history. In one sense, looking for additional outside funding reenacts the program's early history -- borrowing against tomorrow to pay for today. Using one-time funds such as court appointed attorney fees to cover annualized expenses only delays the crisis and in the interim allows it to grow. And in the process, the program would lose virtually all of its flexability. But perhaps an even more important aspect of this approach is that it would allow organization members to continue to deny the reality of the problem facing them (at least at a conscious level) and to avoid assuming their responsibility to help deal with it.

Particularly in times of crisis when many difficult decisions are called for, program management cannot run things by fiat. Unless there is wide-spread support for and commitment to whatever course is selected, every minor difficulty quickly becomes escalated into a major catastrophe with the concommitant disruption of program activities. And with every unresolved (and probably unresolvable) catastrophe comes the inevitable decrease in trust which makes the next problem even more difficult to handle. Therefore selection of alternative one, while seeming to minimize conflict, actually services to increase tension and mistrust.

The second alternative of slowly contracting the program avoids the potentially "false hope" syndrome inherent in alternative one. It requires that both program management and staff come to realistic terms with the situation as it actually exists. One the other hand, it is an alternative which is "passive" and largely without hope. It is passive in that it assumes that the program and its future are in effect controlled by forces outside itself. And it is without hope because it accepts the dependency as inevitable.

If a program adopts such a stance, there are at least two important consequences. First, the program will have lost its sense of vision - its sense of purpose or mission. It is fairly safe to assume that most people who work for legal services do so primarily out of a need to help others and to create positive social change. The money, the working conditions, the prestige and power associated with the practice of poverty law are simply not so overwhelming as to act as the principal motivators. Without this sense of vision to hold the program together, it is probable that destructive internal conflict will again result. Political control of the program's diminishing resources will become the primary focus of people's energy. And the ultimate losers, of course, are the clients who receive less services.

Second, under these conditions program staff are likely to have a relatively short time perspective, both in terms to their commitment to legal services as a career and in terms of their day to day work. How can staff realistically do any career planning when the program is facing a 10% per year reduction in staff size even under fairly favorable conditions? Better to keep an eye out for a more promising situation somewhere else. And if the possibility of leaving in the very near future exists, how likely are staff to involve themselves with long-term projects such as most impact litigation or community economic development? This problem is further exacerbated by the fact that it is the most experienced, competent individuals who are both most likely to leave and also most likely to become involved in long-term projects.

This attitude of relatively passive compliance with the "inevitable" somewhat characterized the program when it shrunk from 50 to 27 staff members. However, it should be noted that this passivity was with respect to the gradual (or in this instance not so gradual) shrinking of the program. The same period was marked by a high level of internal tensions and conflict.

By comparison to the first two alternatives, the third alternative has a great deal to recommend it. It can provide the program with three or four years of stability so that the remaining program members can concentrate their energies on serving their clients. It allows for long term planning and the re-establishment of a sense of purpose. It contains realistic salary increases for staff in this period of double digit inflation. These are some of the benefits, what of the cost?

Certainly the greatest cost is the need to reduce staff by four positions as soon as is realistically possible. And while deciding who stays and who goes is never easy, it can be made somewhat less difficult by realizing that a reduction in staff is not the same thing as firing someone for cause. Particularly if individuals are willing to relocate, the opportunities for experienced legal service workers are considerable. If the program is willing to commit time, effort, and some funds to helping employees change jobs, these individuals may well be better off for the experience.

What the Program Did

After this analysis was made, the program director met with staff members in each branch office and the Board of Directors. The Board of Directors asked that the Project Director prepare a plan that would address the financial analysis and the various implications of the analysis. Input from both Board of Directors, the staff and the union leadership agreed to a plan that recommended reducing from three offices to one central office. By moving to a central office, the program could rely on losing two staff members. Attrition in early 1981 would be relied upon to reduce the staff by another slot. A fourth staff member would be transferred to a non-LSC funded slot, bringing the total number of staff to the level of 21 as suggested in alternative three discussed above.

A second part of the program's reduction plan involved the purchase of a building to generate long term cost savings. In a complete departure from their former policy of using any additional money to keep employees on staff for as long as possible, the Board of Directors approved a resolution to use attorney fee awards expected in 1981 to reduce the remaining deficit and for the purchase of the building. They felt thay the program needed to reduce staff and consolidate in a way that would promote future stability rather than continue their past pattern of "living for today". A building was seen as the best way to achieve consolidation and at the same time generate long term savings which would ensure that a stable core program could continue to operate.

The program staff also felt that reducing into a stable core porgram was the best alternative. There was also a sense of relief that consolidation would achieve the required staff reductions without the trauma of lay-offs.

The timetable for researching the real estate market, purchasing and renovating a building and the actual move was to be accomplished by June 30, 1981. In the first half of 1981, the program was to undergo an extensive priority setting process designed to reevaluate existing priorities in light of their reduced resources and proposed change in structure as well as to educate the community in their service area as to the changes in their program. An extensive series of community forums and local meetings were held in the area. It was anticipated that the new revised program priorities would be used as a factor in determining the most effective delivery system under the new centralized arrangement. Priorities would be implemented after the consolidation was complete.

As of this writing, the program has accomplished almost all of its goals with the exception of the building purchase. Due to the present climate of uncertainty surrounding appropriations and authorization for the Legal Services Corporation, the Board of Directors decided to wait and maintain the three local offices until a decision is reached as to future funding levels for the program. Staff reductions are close to the level the program had planned and they are still well within their timetable for those reductions. The priority setting process continues to take place, with the last of the local meeting to be held in May. Although the program will not be moving into one office in 1981, the director is beginning to prepare for that eventuality by merging the three existing libraries, reevaluating the telephone system and other office equipment. The program plans to delay any more drastic structural changes until the future of LSC is more certain.

What Was Learned

The situation this program found itself in and the responses to that situation by the program's management, staff and board may be typical of what many legal services programs will face in the near future. IF the Legal Services appropriation for

1982 is \$260 million (a decrease of 20%) and IF this reduction is passed along to all programs equally, then all programs will be faced with almost exactly the same decisions which faced this program.

During periods of significant cut backs, it is common and appropriate to focus most strongly on the short-term financial aspects of the situation. However, as the analysis of the alternatives presented indicates, equally valid financial approaches may have significantly different impacts on program staff and the long-term viability/productivity of the program. By taking a pro-active planning approach which addresses the long-term as well as the short-term needs of the staff and the program, the legitimate interests of all parties can sometimes be maximized.

[illegible] increase of [illegible] and if this reduction is passed along to all consumers, then all [illegible] will be [illegible] exactly the same [illegible] as the [illegible].

[illegible] is [illegible] appropriate to [illegible] in short-term [illegible] of the situation. [illegible] as the [illegible] were presented [illegible] would [illegible] only [illegible] in [illegible] and the long-term [illegible] a [illegible] contract which [illegible] as well as the [illegible] and [illegible] of all the [illegible] be made [illegible].