

**REPORT OF THE COLORADO STATEWIDE
LEGAL SERVICES PLANNING GROUP TO THE
LEGAL SERVICES CORPORATION**

March 28, 2002

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REPORT OF THE COLORADO STATEWIDE
LEGAL SERVICES PLANNING GROUP
IN RESPONSE TO LEGAL SERVICES CORPORATION
PROGRAM LETTER 2000-7

Introduction

The Planning Group would like first to express its appreciation to LSC for its steps toward implementing a Strategic Direction Plan with the initial step of self-evaluation by and within each state justice community. Our objective in Colorado is to provide high quality legal services as part of a comprehensive, integrated client-centered system which will provide as many low-income persons as possible with access to the civil legal justice system throughout Colorado, with relative equity between persons located in different parts of the state and between members of different client populations with differing legal needs. Colorado Legal Services (“CLS”) is the most important, but not the only, entity engaged in our efforts to reach that objective.

By far the greatest barrier to equal access to justice by low-income persons in Colorado is the inadequacy of resources available to meet the needs of this client population. This is true in spite of the success of some fundraising efforts which are described below. Colorado is slightly below the national average in available funding per low-income person, primarily because of its very modest public funding at the state and local levels. CLS, in particular, is forced to make choices as to relative allocation of resources to, for example: advice and referral; brief and extended direct legal representation; specialized services to different low-income populations; technology for statewide services; availability of local services; numbers and pay scales of attorneys and paralegals working for CLS; education of client populations to assist them in helping themselves; and other important objectives. Its scarcity of resources produces some level of conflict between providing limited services to more persons and achieving more lasting and beneficial results for a more limited number of persons. But we recognize that the most efficient way to improve the access of low-income persons to the civil legal system is through a close partnership between CLS and other entities and persons who work together with each other and with CLS in using the most efficient methods of achieving positive results for as many members of low-income groups as is reasonably possible. We believe this partnership is working effectively, but there remains some need for improvement.

To What Extent Has a Comprehensive, Integrated, Client-centered Legal Services Delivery System Been Achieved?

We will set forth in this section the organizational and other changes made thus far and defer discussion of self-evaluation to the next following section.

Many of the steps we have taken in Colorado are detailed in your publication “Building State Justice Communities,” dated March 2001. We will repeat here portions of the information contained in that publication, so that our discussion of this issue can be consolidated in one document.

State planning in Colorado began in 1995 with the formation of the Planning Group. Represented in the Planning Group were LSC-funded programs, the organized bar, the judiciary, both law schools in the state, eligible clients, the Colorado Lawyers Trust Account Foundation (“COLTAF,” which is the state’s IOLTA program), the Legal Aid Foundation (the statewide fundraising arm for Colorado’s federally-funded legal services programs) providers of specialized legal services and other groups interested in the provision of legal assistance to low-income people. The current Chair has held that position with the Planning Group since its inception.

As part of the planning process, the LSC-funded programs in Colorado were consolidated into a single statewide program, Colorado Legal Services, (“CLS”), effective October 1, 1999. During the consolidation process, LSC technical assistance grants enabled CLS to use the services of a skilled consultant and facilitator to move the process to conclusion, to send program staff to visit and observe other programs, and particularly programs with well respected and technologically sophisticated centralized intake systems, and to bring in experts to help design a transition to statewide administrative and personnel systems. The grants also helped fund the statewide staff meeting of CLS which launched and celebrated the new statewide program, consolidating the legal services previously performed by three LSC grantees.

The goals of CLS, as the single statewide LSC-funded program, have included establishing standards for high quality legal representation, increased administrative efficiency, more uniform intake procedures and the provision of more effective, accurate and helpful brief service and advice, increased training, technical assistance and support for all staff, but particularly for case handlers in smaller offices, all leading to increased access for more low-income Coloradans in need of service. Another goal has been to meet the needs of particularly vulnerable populations including migrant workers, Native Americans, non-English speaking persons, immigrants, disabled individuals and prison populations. Some of these goals have been met and others continue as work in progress.

Many of these goals have been met or are well on their way to implementation. For example, the CLS Case handler Standards have been adopted by the program’s Board of Directors and distributed to all CLS staff. A training on these standards was provided at the 2001 Statewide Staff Meeting and the Statewide Advocacy Support

Staff (SASS) has plans to provide more local training events on these materials, geared to particular issues or questions raised by the local offices.

SASS has become an important part of the program and this CLS division has been used in several ways to meet the CLS goals, with help from the National Institute of Trial Advocacy (“NITA”). Staffed by three experienced and committed senior attorneys, including the Director of Advocacy, SASS has organized numerous training events for staff including: an annual NITA-style training done with the cooperation of NITA staff, trainers, and the use of NITA materials; substantive updates in family, housing, migrant, public benefits, consumer and health law; and a lecture series focused on the “Master Lawyer” concept that emphasizes professionalism, ethics, and zealous advocacy. On a daily basis SASS provides support, research, advice, co-counseling and mentors for all staff, including those in the smaller or more rural offices. SASS attorneys are intimately involved in the program’s various substantive task forces where the latest legal developments are discussed, advocacy projects are planned and organized, and training needs are evaluated. These task forces are a primary method of ensuring that all case handling staff are kept up-to-date and that the most effective administrative procedures are used in the delivery of services. Additionally, the SASS attorneys have been active participants in the program’s recent “Working Group” process—a process that came out of discussions at the last statewide staff meeting of CLS. These working groups are made up of CLS employees from all offices and job descriptions. The groups have studied and have made or will make recommendations for changes in the program in the areas of Case Acceptance Protocols and Office Priorities, the Balance Between Impact and Service Work, Improvement of Office Efficiencies (Administrative and Substantive), and the Allocation and Use of Resources (Program Support and Training). Many of the recommendations from these groups relate directly to the goals articulated above and will be implemented during the upcoming several months.

SASS also is responsible for the implementation of the CLS web site, which is in development and should be launched in the summer of 2002. The web site will provide an immediate gateway for many CLS clients. These clients will be able to access legal information, referral suggestions, office locations with hours of operation and local case priorities, and instructions on applying for services. Key web site functions include providing better access, increasing administrative efficiency, serving as a clearinghouse of substantive and administrative information for all CLS staff, and providing a public face for CLS to potential clients, attorneys, judges, bar associations, community groups, and service agencies.

The important issues impacting low-income persons in Colorado are for the most part those found throughout the United States, such as: problems of diverse immigrant populations, many of whom speak languages other than English; shortages of affordable housing; lack of adequate transportation; lack of access to adequate and affordable health care; deceptive practices impacting them as consumers; differences in the needs of urban and rural poor populations; institutional and prison populations and their families; issues relating to welfare reform and its impact on the unemployable and working poor; domestic discord and violence; lack of affordable child care; lack of

adequate care for the elderly; inadequate care for physically or mentally impaired persons; problems of homeless populations; discriminatory practices; and many more. Colorado differs from most states in the East, South and Midwest in being more spread out geographically, having a large Spanish-speaking population, having Native American populations both within and outside reservations, and having a fairly large migrant worker population. CLS has attacked these particular Colorado issues by having a widespread network of local offices, employing lawyers and paralegals who speak Spanish fluently, using materials written in Spanish, and employing persons with specialized knowledge of laws affecting migrant workers and Native Americans.

1. Initiatives that CLS has undertaken to improve and expand services to clients on a statewide basis have included:

- ?? The establishment of statewide priorities that pay particular attention to the needs of rural, hard-to-reach areas;
- ?? Increased training and advocacy support throughout the state;
- ?? Detailed plans to initiate a Client Access Plan which will feature a highly centralized telephone-based intake system;
- ?? Vastly upgraded technological equipment, internet access and computer capability;
- ?? A new case information system that will provide improved information about numerous aspects of the provision of legal assistance to the low-income community throughout the state;
- ?? Case handlers' standards to be used as benchmarks by staff in the representation of all program clients.

2. Increases in resources for civil legal assistance have included:

- ?? Expanded distributable revenue from COLTAF by obtaining waivers of service fees by most of Colorado's banks. The elimination of service fees is almost complete. COLTAF has also worked to encourage banks to increase the interest rates paid on COLTAF accounts, or in the present interest climate to reduce interest rates more slowly. (Because of the decline in interest rates, COLTAF is facing a shortfall this year. There are sufficient reserves to keep grant levels at approximately the same level until June 30, 2002.)
- ?? Significantly expanded giving year by year by law firms and lawyers to the Legal Aid Foundation of Colorado since 1995. Colorado's private bar campaign ranks in the top 10 nationally, based on statistics compiled by the American Bar Association's Project to Expand Resources for Legal Services ("PERLS"). The Legal Aid Foundation also has modest success recently raising funds from foundations. Its distribution to CLS in 2001 was \$659,000.

- ?? After four years of effort, with strong support from the leadership of the Colorado Bar Association, hard work by key legislators, and staffing financed by the Legal Aid Foundation and the CBA, the Colorado Legislature appropriated \$250,000 in fiscal year 1999-2000, \$400,000 in fiscal year 2000-2001, and \$426,000 in fiscal year 2001-02 to serve the civil legal needs of victims of domestic and family violence.

As a result of these local funding efforts, the LSC no longer provides the majority of the funding for CLS, and CLS is capable of providing a significantly greater level of service than would be possible with LSC funding alone. However, the total funding per low-income person in Colorado remains slightly below the national average because of low public funding at the state level. The following are efforts that are being considered or are underway to increase resources:

- ?? Efforts to increase the state appropriation for legal services to low-income persons. However, there are in Colorado serious obstacles to overcome in order to increase funding from this source. The first is that Colorado continues to feel the effects of the TABOR (“Taxpayers Bill of Rights”) Amendment to the State Constitution which precludes either revenue or expenditure increases beyond those corresponding to population increases and inflation. Permanent tax cuts enacted by the state legislature in recent boom times cannot be reversed without a vote of the people under the language of the TABOR Amendment. The predictable result is that Colorado is lagging behind most states in spending in many important areas, including education, health care, and domestic violence prevention, in addition to legal services. Colorado also is experiencing a sharper economic downturn than most other states, making it even more difficult to increase legislative funding in the near future. Our principal effort in the next couple of years will probably be to avoid a reduction in legislative funding.
- ?? The Planning Group has also pursued the imposition of increases in court filing fees which could be dedicated to legal services for low-income persons. The Colorado Supreme Court, however, must deal with legislative underfunding of the court system, making it necessary to use filing fee increases for important court expenses, including judges’ salaries. It was understandably not supportive of our initiative, and we were unable in 1996 to persuade the Colorado Legislature to enact such an increase. We do not believe a renewed initiative is presently feasible, particularly since the TABOR Amendment is likely to apply to any revenue increase from this source.
- ?? A resubmission may be made of a previously denied request to the Colorado Supreme Court for an increase in the attorney registration fee to be dedicated to legal services. Such a request, made by the Colorado Bar Association, was rejected by the Court in 1996. We are not hopeful in the short term of a favorable result from a resubmission.
- ?? Increases in funding through the work of the Legal Aid Foundation. The Foundation has increased the amount of its annual disbursement to Colorado

Legal Services and its predecessor organizations virtually every year since its inception. Its dedicated board of directors currently is engaged in long range planning, identifying how best to increase its funding. Short-term priorities will include a major gift and planned giving campaign to increase the size of donations from individuals. Also, the members of this board are powerful allies for any future effort to generate increased state revenue.

3. Efforts to expand and coordinate pro bono services and other activities to improve access to justice throughout the state have included:

- ?? The Colorado Supreme Court revised Rule 6.1 of the Colorado Rules of Professional Conduct, effective January 1, 2000, to provide an aspirational goal that every lawyer provide not less than 50 hours per year of pro bono services each year, with a substantial majority of those hours to be in the area of representing low-income persons;
- ?? The Colorado Supreme Court amended the Code of Judicial Conduct effective February 3, 2000, to specify more clearly that judges may engage in activities to encourage lawyers to perform pro bono services;
- ?? The Colorado Supreme Court amended Rule 11 of Colorado Rules of Civil Procedure and Rule 311 of the County Court Rules of Procedure effective July 1, 1999, to authorize and define the scope of limited assistance by lawyers to pro se litigants, and provide that no entry of appearance would be required;
- ?? The Colorado Supreme Court amended Rule 1.15 of the Rules of Professional Conduct, effective (as corrected) November 9, 1999, to clarify and strengthen its mandate for lawyers to maintain COLTAF (IOLTA) accounts;
- ?? The Colorado Bar Association's Board of Governors in May 2000 approved a set of guidelines to encourage pro bono services by government and public attorneys;
- ?? A thorough review and revision of its Private Attorney Involvement activities has been made by CLS to further encourage pro bono participation throughout the State;
- ?? Efforts have been made by CLS to maximize local pro bono participation while further coordinating statewide technical assistance and legal support provided to attorneys who participate in pro bono programs as well as increased recognition of volunteer lawyers at both the local and state level.
- ?? Progress has been made, as described *infra* on creation of an Access to Justice Commission and local Access to Justice Committees.

?? In May 2001, the Colorado Bar Association Availability of Legal Services Committee, in conjunction with CLE in Colorado, Inc. (the educational arm of the Colorado Bar Association and the Denver Bar Association), presented "Access to Justice 2001." The conference was well attended and included presentations (including those made by LSC's then President, John McKay, and Colorado's Chief Justice, Mary J. Mullarkey), followed by breakout sessions devoted to particular issues. We expect this to be the first of annual conferences intended to inform and motivate lawyers in Colorado regarding access to the civil justice system for low-income persons. The committee planning this conference included the Director of CLS, the Chair of the Planning Group and several other members of the Planning Group.

?? On April 20, 2002, the Colorado Bar Association will conduct a Citizens Justice Summit to obtain ideas and support from non-lawyer community leaders to improve the Colorado justice system, including its fair application to low-income persons. The Chair of the Planning Group is a member of the committee planning this conference.

There have been, however, some setbacks in attempts to increase what the Planning Group considers to be an inadequate level of pro bono legal services in Colorado. In 1998, the Legal Services/Pro Bono Committee of the Judicial Advisory Council presented to the Colorado Supreme Court recommendations for mandatory pro bono services by lawyers, mandatory reporting of the number of hours of pro bono services provided by lawyers (separately reporting services for low income Coloradans and other pro bono services), and the establishment of pro bono committees in each Judicial District. The Supreme Court rejected the first two recommendations (which were not unanimously favored by the presenting group) following widespread solicitation of views from members of the Bar, which showed that the majority of those members did not favor those two recommendations. It did not act on the Judicial District pro bono committee proposal. The Supreme Court has, however, taken other very helpful actions as described above in this subsection. The pro bono committee's proposal has been reactivated by the Colorado Bar Association and the Planning Group, together with an Access to Justice Commission, as described in the next following section. The Planning Group is hopeful that the Judicial District Committees and the Commission will commence operation and find ways to increase the level of pro bono legal services in Colorado.

To What Extent Have the Intended Outcomes of Colorado's Legal Service Delivery System Been Achieved?

As noted in the Introduction hereto, the principal barrier encountered by CLS and other service providers in meeting all of their goals has been a lack of sufficient funds to pursue all of them simultaneously. As an example, while CLS has done considerable work in planning its Client Access Plan for a statewide system of intake and advice and referral, which can be accessed by free telephone service and through a wide area network, there has been a delay in implementation arising from limits on

funding. There is no question that such a system is desirable. Unfortunately, there is also no question that the installation, training and personnel costs associated with handling the resulting increased requests for service would substantially reduce the funds available to support the continued provision of substantial direct legal services to client populations throughout the state. A statewide "hotline" system would result in serving many more individuals than would otherwise be served; but serving additional individuals in a limited way necessarily has an effect upon funds available for more substantial service for others who require it. CLS is seeking a grant from the U.S. Department of Health & Human Services to establish a statewide hotline for the elderly and has continued to study and prepare for a statewide system providing access to other low-income populations, but has deferred the decision to implement it until the reduction in funding resulting from very low interest rates on COLTAF accounts can be offset through increased interest rates or through substantially increased funding from other sources. In the meanwhile it has utilized an NLADA Study and other sources to review the progress, problems and results of "hotlines" already underway, so that whatever system is implemented will be as efficient and effective as reasonably possible.

In establishing priorities and goods for the future, CLS is carrying out a planning process through Working Groups which bring together CLS employees from all officer and job levels. The work and titles of these groups are set forth briefly in the first section of this Report. CLS believes that the information brought by the Working Groups into the planning process will be helpful in evaluating the progress being made and the priorities to be emphasized in attacking remaining problems.

In more general terms, while the Planning Group believes that the steps described under the previous heading have expanded access and the effectiveness of services through coordination with providers throughout the state and reduced variations in access to justice in different geographical areas, we are presently able to measure the improvement only by: 1) knowledge concerning improvements made in methods of delivering service; 2) anecdotal information derived from communications with clients by lawyers and paralegals in the field; and 3) statistical information measuring the number of persons in different areas and groups receiving different categories of legal services. We have attached a copy of the summary of cases provided by CLS to the LSC for calendar years 2000 and 2001. As you know, not all of the clients served are contained in these case summaries because some case files contain insufficient documentation to establish the necessary requirements for reporting. CLS is working to reduce these defects in documentation, so that the reporting will be more complete.

The Planning Group believes from its knowledge of outputs that the legal services delivery system in Colorado is operating more effectively and that the quality of service provided to different populations in the state has become more equal as between client groups which differ in gender, ethnicity, special vulnerability (such as immigrant, migrant worker, and Native American populations) and other respects. But we cannot quantify that improvement unless we are able to gather and evaluate data over time to measure the outcomes to clients resulting from the efforts of CLS and other

persons and groups. We do not believe it is practicable at our state level to devote significant funding and personnel to development of a detailed formal analysis of the extent to which client outcomes are being improved. We intend to review closely the efforts of other states to develop systems for such self-assessment to see whether we can implement measuring tools at a feasible cost.

Meanwhile, the Planning Group will continue to pay close attention to statistical changes in the number of persons receiving service in different categories in Colorado. As part of Colorado's continuing self-assessment process, the Planning Group is asking COLTAF and the Legal Aid Foundation to consider developing a process together with CLS to update evaluations of CLS and share the results thereof with the Planning Group. We will also actively seek important information by conversations with and surveys of clients, communication with client advocacy groups, and communication between and among the persons providing legal services, both on the staff of CLS and otherwise. As our changed and consolidated system matures, this information base will become more valuable.

Is the State Justice Community Properly Organized to Achieve the Desired Outcomes?

In all respects except one, the Planning Group believes that the state justice community is well organized for the delivery of civil legal aid in Colorado. The major gap in our system is the lack of a broadly based entity to which all organizations and individuals working to increase access to justice are accountable. The organizations included in our current system and our efforts to create a new entity – an Access to Justice Commission – are outlined below:

1. Existing structure.

Since October 1, 1999, the LSC-funded legal services in Colorado have been provided by CLS in a single statewide program. The largest source of funding for legal services to low-income persons in Colorado continues to be the LSC. The second and third largest providers of funds are the Colorado Lawyers' Trust Account Foundation ("COLTAF"), which is the IOLTA program in Colorado, and the Legal Aid Foundation of Colorado, which actively solicits voluntary contributions state wide, primarily from lawyers. Legislative appropriations, distribution from some United Way chapters and other individual and foundation sources make up the balance. We have had for many years a successful form of organization using the same staff for both COLTAF and the Legal Aid Foundation, which have separate governing boards, but a common principal purpose. The Planning Group recommends that form of organization to other states that might be interested in changing their fundraising structure. It enables CLS to avoid much of the fundraising that it would otherwise be required to undertake and provides cost efficiency in administering these two sources of funding.

There have been steady increases in funding through the efforts of both the Legal Aid Foundation of Colorado and COLTAF, although COLTAF funding has been decreasing nearly every month since early in 2001 because of reductions in interest

rates paid on COLTAF accounts. The Legal Aid Foundation has increased funding partly through its traditional source of lawyer contributions, but also in increased outreach to other sources. COLTAF has worked vigorously to eliminate service fees charged by banks on COLTAF accounts and has worked to encourage banks to increase the interest rates paid on those accounts (or in the present interest climate to reduce them more slowly). The elimination of service fees is almost complete. After moderate administrative expenses, substantially all of the money raised by the Legal Aid Foundation and more than three-fourths of the amount raised by COLTAF is distributed to CLS. The balance of COLTAF's revenues are allocated to the Colorado Center for Law and Policy ("CCLP"), which provides services which cannot by law and regulation be performed by LSC-funded programs, and to projects throughout the state which are selected by COLTAF's Board of Trustees in two general categories – local pro bono legal service programs and other local projects primarily aimed at low-income persons.

The Colorado Center on Law and Policy ("CCLP") engages in multi-forum advocacy on behalf of low-income persons. It has helped to secure pro bono legal assistance for class actions and other litigation and public service which CLS is not permitted to provide, both in projects which it has led and in projects carried out by others. CCLP has focused on projects such as oversight of Colorado's implementation of welfare reform, the improvement of access to appropriate health care for all residents of Colorado, and the promotion of responsible tax and fiscal policies which will benefit all of them, but including particularly low-income families and vulnerable populations. Much of its work consists of advocacy with the Colorado Legislature and administrative agencies. CCLP investigates facts, identifies problems, and drafts and advocates practical solutions. A substantial number of statutes and legislative rules and fiscal policies have been adopted in large part because of CCLP's work. One example of a favorable change in rules is that CCLP was instrumental in securing a reduction in premiums for poor families to enroll children in CHIP (a federal-state funded program of health insurance) from \$36 per month to \$25 per year. This reduction helps thousands of families.

An example of an adverse legislative change avoided was defeat of a proposal to allow health insurers to rate-band small groups of 2-50 which would result in charging unhealthy individuals and groups more for coverage than healthy groups. This allows more poor and moderate-income persons to be covered by health insurance than otherwise, and continues to make health insurance economically available to those who may need it most. CCLP was also instrumental in securing adoption by the Colorado Legislature of an earned income tax credit at the state level. This has been helpful to low income working individuals and families.

CCLP is partially funded by COLTAF and also receives funding from foundations and individual contributors. The Executive Director and Director of Advocacy of CLS are members of CCLP's board, and CCLP is represented on the Planning Group.

Another important element in the network of organizations providing legal services is the Colorado Lawyers Committee, which each year provides over \$1 million

in pro bono services for the community. Some of the issues which it addresses are referred to it by the CCLP. The Lawyers Committee focuses on systems change, rather than individual representation, and addresses primarily issues affecting children and the underprivileged. The Executive Director of the Colorado Lawyers Committee is a member of the Planning Group. The principal funding source of the Colorado Lawyers Committee is private contributions from Denver area law firms. All of its projects are carried out by lawyers and others who volunteer their time. Current projects of the Colorado Lawyers' Committee include:

- ?? A welfare class action case involving reversal of improper denials of benefits under welfare reform. A settlement was reached in Denver and the outcome of litigation relating to Adams County families has been upheld by the Colorado Court of Appeals, followed by denial of certiorari by the Colorado Supreme Court. The benefits at issue exceed \$2,000,000 and the case has significantly improved the due process rights of public assistance recipients.
- ?? A Medicaid settlement was successfully negotiated which resulted in a \$17.2 million settlement on behalf of 44,000 families who were improperly denied Medicaid benefits from July 1997 to August 2000. The settlement will ensure that the Medicaid benefits are reinstated and recipients are reimbursed for their medical expenses.

The Denver Bar Foundation organizes each year a "Barristers Ball" which generally raises \$80-100,000, all of which is dedicated to the work of Metro Volunteer Lawyers, which is a pro bono legal service program. The Colorado Bar Foundation, which is funded by a growing membership committed to making annual contributions, also helps to fund projects enhancing access to justice for low-income persons. Its grants in 2001 totaled approximately \$40,000. One of the COLTAF directors is nominated by the Colorado Bar Foundation and is a member of the Planning Group.

Pro bono legal services are provided at varying levels throughout Colorado. Local bar associations sponsor 20 pro bono offices statewide; seven of those offices are directly affiliated with CLS. Metro Volunteer Lawyers (Denver Bar) receives office space and intake services from the Denver CLS office. The Mesa County Bar Pro Bono Project receives intake services from the Grand Junction CLS office.

Statewide in 2001, 1,083 lawyers donated their time to directly represent 2,626 clients through local bar pro bono programs. This number, however, represents only about 7% of lawyers in active status in the state. The Colorado Bar Association Director of Public and Legal Services serves as the statewide pro bono support director to assist the efforts of these local pro bono programs by providing information, coordination and education. In 2001, COLTAF made aggregate grants of \$85,000 to 14 local pro bono programs. Lawyers and local bar associations provide additional funding to these programs.

Other independent projects exist through local, specialty and minority bar associations and helping agencies such as women's shelters and ombudsmen's offices. In 2001, COLTAF made \$75,000 in grants to 15 such independent projects throughout Colorado. Some examples of projects are

?? Colorado Women's Bar Association/Project Safeguard Permanent Restraining Order Project

?? El Centro Bienestar Community Legal Clinic co-sponsored by Asian Pacific American Bar Association, Colorado Hispanic Bar Association, Denver Bar Association Young Lawyer's Division, Colorado Women's Bar Association, Colorado Center on Law and Policy

?? Local bar sponsored pro se clinics on various topics, such as bankruptcy, dissolution of marriage, and small claims court procedures.

?? American Immigration Lawyers Association representation of detainees faced with deportation.

The Colorado Bar's Director of Public and Legal Services, the director of Metro Volunteer Lawyers and the President and immediate past President of the Colorado Bar Association are members of the Planning Group.

The students in clinics at the University of Colorado School of Law and the University of Denver College of Law provide valuable services in close cooperation with CLS, which refers work to them in furtherance of its mission. The clinic at the University of Colorado School of Law provides services relating primarily to Social Security and family law matters. The clinic at the University of Denver College of Law provides assistance in family law, domestic violence and housing matters. The College of Law also presents a seminar on pro bono service to its students, emphasizing both their ethical obligations and training in the providing of services.

Finally, judges and court personnel have contributed to access to justice through implementation of ADR services, cooperation in the unbundling of limited legal advice from direct representation of persons representing themselves in court proceedings, and by providing information to persons proceeding pro se. Unfortunately, the limited funding provided to the Colorado court system has limited the total number of court personnel and, therefore, has limited the time which can be devoted to these helpful activities.

As this description shows, there is a strong cooperative spirit among various groups working toward access to justice for low-income persons in Colorado, which has been greatly helped by the effective efforts of Jonathan D. Asher, the Director of CLS, to create a comprehensive coordinated system of access to the civil justice system.

2. Establishment of Access to Justice Commission.

Although the groups working toward access to justice in Colorado cooperate in a reasonably efficient and effective manner; the Planning Group is working toward establishment of a more formal and permanent group for planning and implementation. There is no single central entity within the legal community to whom persons and agencies providing access to justice are accountable. The Planning Group can propose, but it cannot implement. It has no budget, no revenues and no paid staff. Therefore, we believe that it is important to have an organized state justice community which can pursue many avenues toward the goal of equal access to the civil justice system. This is particularly important in Colorado, because we will need a stronger support network to obtain a level of state funding which will more adequately meet the civil legal needs of low income persons in Colorado. Complete success may never be achieved, but this effort should be pursued in a coordinated and consistent way throughout the State.

As described in the first section of this Report, efforts began in 1998 to establish committees in each of Colorado's 22 Judicial Districts to maintain and improve the provision of pro bono legal services through coordination between the private bar and the judiciary. The 1998 recommendations also included the establishment of a statewide committee which would monitor the local committees. Three Colorado Court of Appeals Judges are members of the Planning Group and have been helpful in efforts to revitalize and expand the proposal first made in 1998.

The Planning Group has recently taken action in partnership with the leadership of the Colorado Bar Association and with the Colorado Supreme Court to build on the 1998 proposals by establishing an Access to Justice Commission and local Access to Justice Committees in Colorado's 22 Judicial Districts. The Commission would address all aspects of improving access to justice statewide, while the local Committees would concentrate mostly on provision of pro bono legal services, but would be alert to other opportunities to improve access to justice, either locally or in coordination with the statewide Commission. We contemplate that the Commission, once established, will take over the functions of the present Planning Group and become the centerpiece of Colorado's civil justice community. It will be particularly important to Colorado, since we will need to build an even stronger support network than already exists if we are to obtain the level of state appropriations funding that is needed to begin to meet the civil legal needs of low income residents of Colorado.

The Colorado Supreme Court has agreed to provide support to this effort by authorizing participation of District Court judges in the local committees and joining with the Bar in the creation of the statewide Commission. The Planning Group is hopeful that the Supreme Court will agree either to appoint Commission members from the judicial branch or to designate the appointing courts for that purpose. The Court, however, will not direct any judge to participate in the statewide Commission or the local Committees, nor will it furnish any of the funding for either of them.

The substantial question with respect to the Access to Justice Commission is whether funding can be secured to enable it to have a full-time paid director, as the

Planning Group would much prefer. This question is presently being considered in coordination with the Colorado Bar Association. Meanwhile, we are now drafting a charter for review by the Supreme Court and the Colorado Bar Association, so that we can get the Committees and Commission underway.

The Planning Group does not believe that the writ for an Access to Justice Commission should run only to the improvement of pro bono legal services, although that is an important component of its proposed mission. Our proposal to the Colorado Supreme Court and the Colorado Bar Association is that the Access to Justice Commission represent all of the constituencies presently represented within our Planning Group and function as an entity which can more effectively seek funding from the Colorado legislature and elsewhere and provide support and guidance to pro bono programs and to specific programs such as CCLP and the Colorado Lawyers Committee. In short the Access to Justice Commission and the persons with whom it works would become the "State Justice Community" as that term is used in Program Letter 2000-7. It would have overall responsibility for coordination of the funding and delivery of legal service by the individuals and agencies actually performing the services. We do not intend, however, that it displace COLTAF or the Legal Aid Foundation in their solicitation and distribution of funds as they deem appropriate.

Conclusion

Our ultimate goal in Colorado is to provide high quality service and access to the legal system in the pursuit of justice to every poor person in the state who has a legal problem. We recognize that this outcome cannot be achieved at the level of funding now available or likely to be available at any time in the near future. That being so, our more immediate goal is to organize and carry out the delivery of services in the most effective and efficient way possible within the existing funding limits while simultaneously seeking additional funding to allow us to move closer to our ultimate objective. While the ultimate goal is almost certainly beyond reach in the near term, we will continue to measure our performance in terms of progress toward that goal.

Respectfully submitted,

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