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Via email and regular mail

January 24, 2002

Randi S. Youells, Esq.
Vice President for Programs
Legal Services Corporation
750 First Street, N.E., 11th Floor
Washington, D.C. 20002-4250

Dear Ms. Youells:

Enclosed is the next three year statewide plan for Legal Services in New Jersey, with accompanying assessments. It addresses, inter alia, the matter of configuration.

Very truly yours,

Melville D. Miller, Jr.

MDM/mg
Encls.

c: Robert Gross, Senior Program Counsel
LSNJ Policy Council

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Overview

In this report, the New Jersey Legal Services system sets forth its major planned initiatives for the next three years, covering 2002 through 2004.

New Jersey's Legal Services system, according to those at the national level in a position to know, is one of the very best in the United States – perhaps the best. Nonetheless, the system is not perfect or flawless, and as with all institutions is certainly capable of some improvement. This plan charts the next few years of such efforts to enhance the current system.

As with most states, New Jersey's Legal Services network is the backbone of available free civil legal assistance for the poor. It provides more than 85% of all such assistance. While other special interest non-profits or clinics may provide free legal help in certain subject areas (e.g., education) or to particular populations, only Legal Services offers free legal assistance to all poor people, in all types of civil legal matters. Legal Services has been serving New Jersey residents since 1966 – over thirty-five years, a period during which many other legal assistance provider organizations have come and gone. Much smaller in scope, they are much more susceptible to vagaries of available funding and other short-term support. While these supplemental efforts can be very important to the individual clients assisted, they do not approximate a statewide delivery system. Although Legal Services' own support has not been unchallenged during its thirty-five years, in fact its funding has been remarkably steady in New Jersey, building gradually but consistently, somewhat ahead of the inflationary curve, as Legal Services attempts to close the enormous gap between actual need and available resources.

Public funding of civil legal assistance for the poor is necessarily a predominantly state governmental obligation. It is the state system of laws which has the most direct and pervasive effect on the lives of the poor: tenancy, family law, most consumer protection, most education, and much of the available benefit programs. Unquestionably there are also important federal laws affecting the poor, especially Food Stamps, Medicare, SSI disability and bankruptcy, and there is corresponding federal support for the Legal Services program through the national Legal Services Corporation, approaching 15% of total Legal Services funding in New Jersey. And, given the significant municipal laws affecting the poor, particularly rent control, code enforcement, urban redevelopment, zoning, certificate of occupancy ordinances, and other city ordinances and codes, there needs to be significant local government support for legal assistance as well, an area in which New Jersey is deficient. The state must be the lead partner in a federal, state and local public funding partnership.

To justify this state funding support, it is incumbent upon the Legal Services network to function as an integrated, tightly coordinated, single statewide system. State level funding must be distributed in a uniform manner throughout the state, according to the number of low-income people in each area. And with that equivalent funding, low-income people across New Jersey are entitled to expect relatively equivalent levels of legal assistance.

As detailed in this report, New Jersey to a very great extent functions as such an integrated statewide system, and has for many years. Highlights of the major initiatives to further improve this system, to be carried out over the next three years, include:

- Continuing and completing an exhaustive study of the civil legal assistance gap in New Jersey, including more careful analysis of when people really need the help of an attorney

- As appropriate, given the results of this study, improve Legal Services' efforts to assist people who can deal with their legal problems pro se – without the help of a lawyer

- Based on the Legal Needs Study and actual demand, beginning a new campaign to raise the public and private funding necessary to close the rest of the assistance gap and provide full access to necessary legal assistance

- Reconfiguring program service areas

- Initiating new specialized representation projects.

The initiatives are described in more detail in Step Seven of this report.

Step One: The Vision – Necessary and Effective Legal Assistance to Secure Equal Justice for All

New Jersey Legal Services has a single statewide vision: ***full access to necessary and effective legal assistance for all economically disadvantaged people who cannot secure a lawyer on their own, provided through an integrated and coordinated statewide system, to help secure equal justice for all.***

Most people cannot resolve legal problems and navigate the legal system successfully without the help of a lawyer. Faced with a serious legal issue, they are at risk without an attorney. Most people experience a number of legal problems during the course of their lives. This shared experience of needing an attorney, coupled with a national ethos sounding in fairness and equal justice, underlies a broad political consensus, confirmed in opinion polls, which supports public funding for legal assistance in civil cases. Legal Services' vision and mission must remain true to this anchor of support, and the program must maintain central focus on meeting basic legal needs and securing equal justice. A contrary course would erode essential public support.

This vision of full access to necessary legal assistance and securing of equal justice is the cornerstone of a system of rule of law. If people are denied necessary effective legal assistance, they cannot participate in the justice system, and as a consequence cannot be expected to honor or abide by a principle of rule by law. Resource limitations which deny legal assistance to many who need it undermine this vision; so do arbitrary restrictions on the groups of clients who may be represented, the types of cases which may be taken, or the kinds of legal actions and remedies which may be pursued.

Step Two: The Statewide Legal Services Mission

The statewide vision provides the source for Legal Services of New Jersey's core statewide mission:

> *Through provision of effective legal assistance, Legal Services seeks to secure equal substantive and procedural justice for all economically disadvantaged people.*

To achieve this core mission, there are three distinct goals which round out Legal Services' statewide mission statement:

To achieve this mission:

1. *Legal Services must function as a concerted, integrated, closely coordinated legal assistance delivery system, the hub of a broader legal assistance delivery network and partnership, to achieve full access to equal justice for all economically disadvantaged people.*

2. *Legal Services must develop the resources necessary to achieve this vision, and must target such resources, and use them as efficiently and effectively as possible, to achieve the greatest measure of equal justice.*

3. *Legal Services must incorporate the views of its service consumers and key partners, as appropriate to their experience, stake and role, in making major decisions about how to design and implement its system of services.*

Legal Services must function as a closely integrated, coordinated, non-duplicative and effective core statewide delivery system, at the hub of a broader, coordinated delivery network, a web of civil legal assistance providers. The efforts of Legal Services and this wider web must be dedicated to affording economically disadvantaged people 100% access to necessary civil legal aid, provided in whatever form is most appropriate for their particular legal problem and situation, for all significant civil legal problems (meaning all problems not trivial or frivolous). Arbitrary restrictions which would prevent Legal Services from assisting certain categories of the poor, bar representation in certain types of cases, or block use of certain legal forums, procedures or remedies available to all other Americans, are fundamentally inconsistent with this mission.

Providing legal representation in the most effective and efficient way inevitably compels Legal Services to maximize its use of resources by prioritizing work which has the potential to assist the greatest number of disadvantaged people. Such prioritization requires sensitivity to potential impacts which transcend the individual interests in specific cases. For example, Legal Services may prioritize legal representation that helps rebuild impoverished, deteriorated communities, or addresses in a single forum or legal action recurrent problems which otherwise would repeat themselves hundreds and thousands of times in cases involving low-income people. Legal Services must continually monitor its own effectiveness, and place special emphasis on representation that actually secures fair outcomes for clients, and protects and enforces their legal rights.

Step Three: Delivery System Standards – Benchmarks for An Effective Legal Services Delivery System

Legal Services of New Jersey has developed comprehensive Delivery System Standards. They incorporate and build upon several related efforts: the American Bar Association (ABA) Standards for Providers of Legal Services to the Poor, the Legal Services of New Jersey and LSC Performance Criteria, and the Legal Services of New Jersey Necessary Characteristics of a Coordinated Statewide Legal Assistance Delivery System. They are informed as well by the LSC State Planning Configuration Standards.

The Delivery System Standards detail what should take place at both the provider and statewide system levels. Consistent with the statewide vision and mission, they are designed to achieve two goals: providing necessary civil legal assistance to the disadvantaged, and maximizing the opportunities to secure equal justice. The DSS form the framework for the assessment of the current delivery system. The DSS are an evolving benchmark, and will require periodic review in light of economic, political, demographic, technological and legal changes.

The consensus national standards for Legal Services, the Performance Criteria and the ABA Civil Standards, focus principally on what should take place at the individual provider level, not on criteria for assessing the state or national delivery system as a whole. Through the national Legal Services planning efforts which commenced in 1995, many states established their own criteria for what an effective state delivery system should be or achieve. In New Jersey, these were the "Necessary Criteria," first promulgated in 1995 and revised in 1998 and 2000. The Criteria are incorporated in and superseded by these Delivery System Standards.

From a legal perspective, much of the last three decades has been characterized by a return of authority and responsibility from the federal government to the states. State law, always central in the lives of the poor, has become even more determinative. It is inevitable that the most effective Legal Services delivery system must organize itself in a way that is centered on this state law base.

1. ***Each Legal Services provider must offer effective necessary legal assistance to its clients, and maximize opportunities to secure equal substantive and procedural justice for all disadvantaged people.***

   The principal framework for assessing effectiveness remains the LSNJ Performance Criteria, which are supplemented by the ABA Civil Standards. The Performance Criteria are incorporated by reference. A revision of the LSNJ Performance Criteria is nearly complete, and will be included as the detailed text of this broad standard. The current Performance Criteria are attached as Appendix I to this report.

2. ***All Legal Services providers must be linked together as part of a single closely coordinated, integrated and effective statewide delivery system.***

   Key characteristics of this coordinated statewide delivery system include:

   I. Coordination of legal work

      A. Effective monitoring, analysis and timely distribution of information regarding all relevant legal developments to affected parties (including Legal Services staff, cooperating *pro bono* attorneys, contract attorneys, and other partner legal providers).

      B. Central statewide legal clearinghouse and contact point for legal consultation, used by all Legal Services staff and cooperating *pro bono* attorneys.

      C. Regular statewide convenings (meetings, video conferences and other forums) for casehandlers and supervisors to discuss common issues, problems, approaches and strategies so as to make the most effective and efficient use of resources. Utilization of alternative communication modalities (closed electronic forums, teleconferencing) to replace or supplement face to face meetings where feasible.

D. Development of statewide or regional legal representation projects for particular eligible client populations or problems.

E. Participation in national and interstate efforts to coordinate legal work when such efforts hold promise for productive results.

F. Development and utilization of statewide best legal practices materials.

G. Coordinated statewide legal hotline and intake system, utilizing telephone intake and advice, integrated with an electronic self help system, and local self help clinics.

H. Coordinated advocacy in all state and federal level legal forums on matters of consequence to low-income people, including amicus work.

II. Statewide information system

A statewide system must include securing, disseminating and archiving all relevant information, and incorporate:

A. Utilization of appropriate technology, including electronic forums such as a statewide e-mail system, statewide Legal Services calendar, statewide website (public access), internal Legal Services intranet, and other appropriate public interest legal practice and *pro bono* electronic networks.

B. Regular dissemination of information statewide to staff, *pro bono* attorneys, major client groups, and other partners.

C. Coordinated statewide legal, policy and poverty research support strategy, including (1) statewide dial-in electronic library for (a) briefs, forms, best practices, and other related material, and (b) necessary proprietary research texts and systems which are accessible to all Legal Services offices, and (2) supplementary acquisition of a statewide core reference collection of relevant and necessary hard-copy materials, both original and proprietary.

D. Coordinated statewide public information system.

E. Coordinated statewide education and training and professional development plan which allocates responsibilities between the state and local office levels, to secure maximum efficiency and effectiveness, with participation in national and regional collaborations where suitable.

III. Coordinated community legal education and self-help efforts

A. Identification and prioritization of critical legal issue areas which should be addressed in a concerted, statewide way through materials, audiovisual approaches, and other strategies.

B. Development and distribution of statewide documentary and audiovisual materials.

IV. Administrative coordination and support

A. Statewide technical assistance to managers and administrative staff.

B. Coordinated central purchasing whenever there are significant economies of scale or other advantages to be realized (equipment, technological systems).

C. Statewide norms and policies, such as program performance criteria and referral and conflict procedures, and advisory guidance on discretionary issues.

D. Statewide best practices, in areas such as intake, needs assessment, priority–setting and strategy development.

E. Consolidation of and support for financial operations to achieve maximum efficiency without loss of effectiveness.

F. Coordinated recruitment and support for other human resources functions, including on-campus/job fair visits, resume bank, affirmative outreach, and summer programs and fellowships; support for staff retention activities and strategies, including salary and benefit comparability analyses and development of new benefit approaches; compilation of best practices; information clearinghouse; and facilitation of necessary outside support, including legal counsel for routine problems.

V. Coordination of state-level fund development

A. Unified private and capital campaigns.

B. Unified approaches to major potential state level public sources.

C. Unified liaison with and maintenance of existing statewide sources.

D. Coordinated technical assistance for targeted local funding efforts.

E. Coordinated state level or regional approaches where required or most effective in order to garner targeted funding.

VI. Coordinated statewide *pro bono* development

A. Development of specialized statewide panels.

B. Statewide recognition efforts.

C. Statewide information links.

D. Coordinated statewide technical and legal assistance and other support for local *pro bono* efforts.

E. Coordinated recruitment efforts.

VII. Coordinated statewide liaison with all major institutions affecting or serving low-income people in legal matters

Maintenance of effective communication and necessary advocacy with the judiciary, state executive branch, state legislature, organized bar, statewide and major community organizations and similar groups, and similar liaison activities at the national level as appropriate.

VIII. Statewide delivery and poverty research

A. Coordinated delivery research and experimentation.

B. Ongoing coordinated research, both primary and secondary, on relevant demographic trends, emerging legal problems, legal needs and patterns of seeking legal assistance, the incidence and effects of poverty, and the effectiveness of various interventions and policies seeking to ameliorate poverty.

IX. Equity and uniformity

A. Equal distribution of statewide resources for legal assistance by local programs, based upon proportionate shares of the poverty population.

B. Reasonably equivalent services available from statewide resources to similarly situated clients regardless of where they are located.

X. Accountability

Maintenance of an effective statewide accountability system, which ensures adherence to the Delivery System Standards and other statewide requirements and guidelines. Central to this accountability is ongoing assessment of effectiveness.

XI. Innovation and leadership

Commitment to continuous statewide innovation and leadership to enhance the effectiveness of legal assistance to clients and achieve Legal Services' statewide vision and mission.

XII. Coordination with other legal assistance providers

Coordination with other organized providers of legal assistance to low income people in the state, to the end of achieving, insofar as possible given differing areas of focus and mission, an integrated, complementary, and non-duplicative statewide legal assistance network.

Step Four – The Current Planning Process

In early 2001, as a continuation of the recent three year plans described in the next section, LSNJ initiated work on the next three year statewide New Jersey Legal Services plan, to cover 2002 through 2004. Key components of this process included:

A. Completion of a comprehensive statewide quantitative study of the legal needs of low income people in New Jersey, to serve as a client-based foundation for Legal Services' statewide planning and activity over the next several years.

B. Comprehensive assessment of each of the 15 programs in the New Jersey statewide Legal Services system by an outside consultant, John A. Tull of Nederland, Colorado. Mr. Tull brought over 30 years of Legal Services experience to the task, including service as a Legal Services staff attorney and project director, member of the national Legal Service Corporation's Denver regional office, independent consultant for Legal Services programs and for national organizations such as the American Bar Association, and executive vice president of the Legal Services Corporation. He has participated in more than two hundred legal assistance program evaluations.

C. Careful assessment of numerous quality Legal Services programs in other states, commencing what will be an annual practice of surveying best practices of Legal Services programs around the country. The 2001 visits concentrated on programs and states that had recently considered or undertaken reconfiguration and consolidation.

D. Discussion of key planning topics with Legal Services directors and staff at statewide Policy Council and directors' meetings, task forces and other sessions through the year, as well as among boards and staff of programs back at the local level.

E. Numerous and extensive consultations with the leadership of the key statewide stakeholders in New Jersey's Legal Services program: the judiciary, through Chief Justice Deborah Poritz and Judge Richard Williams, administrative director of the New Jersey courts; Harold Rubenstein, executive director of the New Jersey State Bar Association; Rafael Aviles of the New Jersey Department of Treasury, the principal state government funder; and Ellen Ferrise, executive director of the IOLTA Fund of the Bar of New Jersey.

F. Extensive discussions of all statewide planning at statewide Legal Services of New Jersey board meetings.

G. In conformity with expressed LSC guidelines, an eleven member "designated state planning body" (DSPB) was constituted, consisting of Judge Williams, Mr. Rubenstein, Mr. Aviles, Ms. Ferrise, two local Legal Services program directors, Paul Mullin of Middlesex County Legal Services and Felipe Chavana of Essex-Newark Legal Services, LSNJ board members, Ivette Alvarez, Ken Frazier, Cynthia Jacob and Paul Wilson, and Melville D. Miller, Jr., LSNJ's president. While not in any sense a formal organizational governing board, the members of this group provided input to this plan, and are expected to act as a consultative advisory group on an ongoing basis.

This three year plan is the product of these combined processes.

Step Five – Evaluating The External Context: Relevant State and National Developments Affecting Civil Legal Assistance for Low Income People

Several external state and national developments influence the effort to fashion a new three year plan for Legal Services in New Jersey. Most of them are continuations of factors that have been underway for some time; all will have significant impact in the years to come.

A. Judicial role. New Jersey has a very well managed centralized judicial administration system, and is thus in a position to both lead and take advantage of the newest developments in this area. Three are of special importance to New Jersey:

(i) Best practices. Over the past three years, the courts have attempted to balance historical court tensions between centralized direction and local innovation and authority through adoption of statewide "best practices." Legal Services has had input in their promulgation, and will need to monitor and participate in inevitable adjustments.

(ii) Pro se. Over the past three years, the New Jersey judiciary has made a significantly heightened commitment to providing assistance to pro se (unrepresented) litigants. Legal Services, through LSNJ, has worked closely with the New Jersey courts to assist and maximize this new direction, providing some of LSNJ's own materials as models, commenting on judiciary drafts, offering a comprehensive format for assistance in tenancy matters, and collaborating to design possible prototypes for new joint self-help technology centers linked to Legal Services support. Some local programs have also developed pro se materials at the county level.

(iii) Alternate (or "complementary") dispute resolution (ADR). Since 1983, New Jersey has been in the vanguard nationally in developing court-annexed ADR systems. LSNJ has been closely involved in such efforts since the beginning. These initiatives have gained new impetus with the New Jersey judiciary's decision to go to nearly universal mandatory ADR in civil proceedings.

B. Economic slowdown. The recent downturn has increased the need for legal assistance on the part of low income people, while at the same time threatening Legal Services' two major funding sources, IOLTA and state appropriations. This double blow poses major challenges for the months, and perhaps years, ahead.

C. Technological innovation. Technological change as it affects law and law practice continues at a rate almost impossible to even catalogue. Legal Services' continued challenge is to stay abreast of this technology and to incorporate it wherever possible to enhance the effectiveness and efficiency of its legal assistance efforts.

D. National Legal Services developments. Four bear special mention as posing important opportunities and challenges in the years ahead:

(i) continued growth of central intake systems and "brief service" delivery units;

(ii) continued emphasis on integrated statewide legal assistance systems, including non-Legal Services Corporation-funded providers;

(iii) increased emphasis on merger and consolidation of legal assistance providers, often called "reconfiguration";

(iv) stabilized Congressional and Presidential support for Legal Services, on more of a bi-partisan basis, but without any immediate prospects for a significant increase in national Legal Services Corporation funding.

Each of the foregoing factors has been considered in devising the plan that follows.

Step Six – The Internal Context: New Jersey's Statewide Legal Services System

A. A Brief Historical Overview of New Jersey Statewide Legal Services Coordination.

Legal Services programs were started on a county by county basis in the mid-60's. In several cases, these new programs merged with and supplanted preexisting county bar association legal aid societies. Many Legal Services programs began as part of OEO-funded community action corporations, later splitting and becoming independent. Since the mid-1970's, all county Legal Services programs have been independent non-profit corporations, not part of or affiliated with any other organization. Each has its own board of trustees, a majority of whom are lawyers appointed by the bar associations in the service area.

Statewide coordination of these separate county programs began later in the 1960's, coordinated first by the State Office of Legal Services within the state Department of Community Affairs, then by an informal project directors group in 1971-1972, by the New Jersey Legal Services Association in 1973, and thereafter by LSNJ, starting later that year (LSNJ had been organized a year earlier, in 1972). New Jersey has thus had a long – and strong – history of statewide coordination going back three decades, carried out through LSNJ and its staff, task forces, statewide training, newsletters, legal and administrative support, fundraising and other work. Since 1973, Legal Services has spoken with a unified voice, through LSNJ, to the judiciary, Legislature, Governor and executive branch, and is perceived by each as a unified system, an enormous strength.

Legal Services' various growth and retrenchment periods have each in turn tended to further strengthen this systematic coordination. During the expansion period from 1976 to 1979, New Jersey put substantial resources into increasing LSNJ's staff. Then, during the 1981-1983 retrenchment phase, LSNJ was called upon to coordinate the planning response and the quest for new resources. This emphasis on securing state level restoration and expansion funding continued through the remainder of the 1980's and 1990's. In 1995-1996, in response to the national campaign against Legal Services involving the majority leadership of the 104th Congress, LSNJ took on major new responsibilities, operating a statewide hotline and intake system anchor; providing direct representation in areas restricted by federal funds; and coordinating new statewide representation projects in certain underserved problem areas.

B. Sketch of the Present New Jersey Legal Services System.

Legal Services' total statewide funding of over $37 million annually comes from a diversity of sources – a true partnership. The largest share, $14 million, comes from the state, nearly matched by over $13.5 million from IOLTA funds. Another $5.1 million comes from the LSC, together with well over $1 million from counties and other units of government, and nearly $1 million from private sources. All funding

available on a statewide basis to support direct services by local programs is allocated according to an equal-dollars-per-poor-person formula.

Legal Services provides direct representation to 50,000 New Jersey residents annually, and has represented over 1.3 million since the program's inception. Hundreds of thousands more, an estimated additional 50,000 more each year, have received assistance through self-help materials, preventive legal education and self-help clinics. Over one-third of the cases are typically housing cases, one-fifth concern family matters, another one-fifth involve problems with governmental income maintenance programs, and fifteen percent deal with consumer issues. In particular geographical areas, however, there is often significant variation. For example, more densely urban counties generally have a higher proportion of housing cases, and some counties have much higher concentrations of entitlement problems.

As a system, Legal Services programs provide a full range of services. LSC-funded local programs provide the bulk of the direct representation in most types of cases. LSNJ, which receives no federal LSC funding, is able to provide a substantial amount of representation in types of cases that cannot be handled by LSC-funded grantees. LSNJ is also able to provide representation and a presence before the Legislature and state administrative agencies.

For the convenient access of clients, New Jersey's local Legal Services programs have a total of 26 full-time offices in 20 of the state's 21 counties, and five counties actually have two full-time office sites within their borders. New Jersey Legal Services has long placed great importance on having a physical presence – a full-time office – in every county, in order to enhance client access in a state which does not have a good public transportation infrastructure (except within and between certain major urban areas). The location of programs and offices, as well as a more in-depth description of various aspects of the state system, can be found in "Legal Services At A Glance - Providing Essential Legal Aid," Appendix II to this document. LSNJ's coordinating role is multifaceted: it acts as funder, fundraiser, and support center. It engages in major case advocacy; provides direct representation in cases where it is best carried out or coordinated statewide, where LSC restrictions prevent local program involvement, or where funds are only available on a statewide basis; provides statewide accountability for the Legal Services system, in addition to that required by local program boards and other funding sources; represents Legal Services at the state level; conducts research and analysis in delivery and substantive areas; provides leadership; and serves as a catalyst for innovation and improvement.

C. Principal Achievements Under The Previous (1999-2001) Three Year New Jersey State Legal Services Plan.

Major delivery systems accomplishments and improvements during the past three years have included:

(i) Completion of a major statewide quantitative study of the legal needs of low income people, to be released this coming spring.

(ii) Completion of a comprehensive study of New Jersey's delivery system, in the context of best practices nationally.

(iii) Maintaining and expanding New Jersey Legal Services' national-best level of state support, now totaling $27.5 million annually.

(iv) Continuing to build New Jersey Legal Services' national-best technology infrastructure.

(v) Expanding the collaboration with New Jersey's judiciary on pro se materials.

(vi) Further implementation of coordinated statewide intake and hotline.

(vii) Initiation of statewide targeted legal representation projects in the areas of child welfare representation, SSI, predatory lending, farmworkers (in LSC-restricted matters), unemployment insurance appeals, and employment.

(viii) Enhancing statewide *pro bono* coordination.

(ix) Enhancing Legal Services' state legislative presence on key issues affecting low income people.

(x) Initiating an annual statewide New Jersey Substantive Law Conference, to review comprehensively all major developments in key poverty law areas and engage in strategic substantive planning for the coming year.

A detailed report on the status and achievements of the most recent three year plan appears as Appendix III.

D. Assessment of the Effectiveness of the New Jersey Legal Services Delivery System.

New Jersey's Legal Services system is unique. Its history of coordination and structured collaboration, while still preserving the benefits of autonomy in independent local programs, does not appear to be matched elsewhere. New Jersey programs have developed and maintained a very substantial amount of both statewide and local funding. The smaller local programs, in particular, have been quite successful in raising local funding. At the same time, the combination of New Jersey's state level funding through state appropriations and IOLTA is unmatched nationally, and stems from its close coordination and unified voice through LSNJ. This state level funding also gains strong support from the programs' close ties with many county bar associations and communities. New Jersey is an extremely strong home rule state, with much authority – and pride – relegated to its some 567 municipalities and 21 counties. For better or worse, New Jersey has more

incorporated municipal government units per square mile than any other state, and this centuries-old pattern gives no evidence of imminent change. In this environment, New Jersey Legal Services' unique balance of strong statewide coordination and decentralized program structure historically has worked well. The following overview highlights the major strengths and areas for improvement in New Jersey. The analysis is based in major part on the work of John Tull, the independent consultant who visited all of New Jersey's programs during the past year. It is also based upon analysis by LSNJ staff, and on discussions at LSNJ Policy Council and other meetings during the preceding year. See Step Four, above. Much of the discussion in this report has relevance to the questions asked in the LSC's Program Letter 2000-7, but the format of that document does not correspond to the structure of this plan. As a result, a separate summary assessment corresponding to the framework of 2000-7 is included as Appendix IV.

The outside Tull evaluation pinpointed a series of issues requiring attention which were specific to the individual Legal Services programs. In addition, the evaluation identified certain crosscutting, generic issues which appeared with a frequency sufficient to justify their inclusion on a list of more systemic concerns. They are detailed below, after a presentation of major systemic strengths.

1. Major strengths to be continued and built upon:

   Experienced staff. In nearly every program, there is a core of very experienced, expert staff who have been with Legal Services many years, and afford clients an invaluable resource.

   Statewide fundraising. New Jersey's IOLTA funding for Legal Services has ranked first in the country for the past three years, and direct state funding is also first. The annual statewide private fundraising effort, the Campaign for Justice, is one of the most successful in the country.

   Statewide reputation, respect and credibility. As restated on a number of occasions by New Jersey's Chief Justice Deborah Poritz, the Legal Services system in New Jersey is viewed as an essential and fundamental part of the justice system, a core capacity supporting a critical measure of access to legal processes and just resolution of disputes and grievances.

   State bar support. For decades, the New Jersey State Bar Association has given its strong, unswerving support for Legal Services as it spoke and worked in favor of funding preservation and increases, and against limitation or restriction of Legal Services' efforts to assist clients. This support has been the determining factor in Legal Services' past success in securing state and IOLTA funding.

   Locally rooted. New Jersey's configuration of county or multi-county programs has been a key factor encouraging significant local bar support in many counties. This local presence, described earlier, appears also to have been a major factor

encouraging contributions from local funders (counties, United Ways, Title III agencies, mental health boards, etc.), as well as good working relationships with the judiciary.

Diversity in multiplicity. The sheer number of New Jersey Legal Services providers, distributed across and based in every county, have produced a robust and rich spectrum of insights and perspectives on major issues, and also provided a laboratory for new leaders, offering opportunity for a lot of experience and responsibility earlier than would be likely or even possible in much larger institutions.

Statewide training. A tradition in New Jersey since LSNJ started statewide training events in the 1970's, the LSNJ annual training and seminar calendar is now the most extensive in the country, with basic and advanced substantive, skills and procedure training and other staff workshops, which consumed over 80 training days in 2001, not counting the two statewide conferences.

Major state advocacy presence. Principally through LSNJ, Legal Services has a presence in most major matters affecting low-income people. Important local program staff cases are buttressed through LSNJ *amicus* work when significant issues are involved. As the New Jersey Legal Services program that receives no LSC funding, and thus is not encumbered by the myriad LSC restrictions, LSNJ also engages in representation before legislative and administrative forums when matters involving the recurrent legal problems of the poor are involved, in order to make the most efficient use of Legal Services' resources.

Statewide information dissemination. A major portion of LSNJ's work is information dissemination, to Legal Services programs, the private bar, community organizations, service providers and low-income people. LSNJ publishes several community legal handbooks, a range of self-help materials, and monthly community and Legal Services newsletters, and has initiated a comprehensive Web page, with both public and private sections, including a "ResearchNet" link to LSNJ's new electronic library. It also initiated "ebank," a customized searchable statewide electronic database for all pleadings, forms, memoranda and other documents germane to effective assistance to the poor.

Statewide legal coordination and support. Through its longstanding task forces, and telephone, electronic and in-person communication with LSNJ staff, as well as an experienced network of local program case handlers from around the state, Legal Services provides extensive support in complex or difficult cases. In addition to providing on the spot advice, LSNJ staff also conduct research, review drafts, help secure and channel advice from national and other state sources, and provide other assistance. Finally, in appropriate difficult or major cases LSNJ staff are also available to co-counsel with local program staff. Of increasing importance, LSNJ maintains the statewide email network, and provides advice and moderates the ongoing electronic exchanges among specialists concerning

issues, problems and strategies via the task force lists on the statewide WAN. It is clear that this capacity of instant access to substantive experts throughout the state has become an important training tool, and has raised significantly the quality of legal work. In recent years LSNJ also has instituted a statewide electronic "virtual" law library, accessible from every staff desktop in the state. Dubbed ResearchNet, it supplements local program libraries and document banks, and the building of a statewide hard copy poverty law library in Edison (with a computerized statewide circulation system and exchange privileges with external academic and legal library networks) by providing work station Internet access, Westlaw and Lexis on-line, the LSNJ document bank ("ebank"), and a library of CD's.

Statewide technology infrastructure. One of the major products of the last reengineering and planning process has been implementation of a massive statewide Legal Services technology installation and upgrade. This initiative has created great capabilities to support Legal Services' work: all Legal Services staff have desktop access to statewide e-mail (through a wide area network), the Internet, Westlaw online research (unlimited hours), Lexis, and LSNJ's statewide electronic law library. In addition, a technology reserve for future statewide acquisitions and upgrades has been set aside. See Appendix V for a current description of the LSNJ technology backbone.

Statewide management and technical assistance, and administrative coordination. For many years, LSNJ has coordinated a flow of information about a host of administrative tasks and issues, in an effort to promote efficiency and redirect more resources to client service. Examples are health and dental insurance (LSNJ coordinated a statewide health insurance plan for some 18 years, until precluded by statutory change, and still coordinates a dental plan available to all programs), bulk purchasing (past studies have not shown this to be cost-effective, but it is periodically reexamined), insurance, major equipment purchases (providing prior review, advice and approval), statewide salary comparability studies and recommended guides, and like undertakings. LSNJ staff also provide telephonic, electronic and in-person assistance in response to requests for help.

Statewide accountability framework. LSNJ is the major funding conduit for New Jersey Legal Services programs. Even before it assumed this role in a major way, LSNJ was coordinating site evaluations of local programs, and these efforts have increased measurably over the past decade. To facilitate this work, in the early 1990's LSNJ drafted "Performance Criteria" for local programs, for use in self-assessment and outside evaluations. These criteria were subsequently adopted for use at the national level by the LSC. LSNJ also conducts annual reviews of statewide performance data.

***Pro bono* coordination.** In the early 1980's, during the formative years of formal *pro bono* programs in Legal Services, LSNJ coordinated program design, form implementation, policy development, and similar work for a decentralized *pro bono* system, in which responsibility for operation was ultimately left to county-level Legal Services programs and bar associations. More recently, LSNJ has taken the lead, in conjunction with key corporate and local Legal Services program partners, in developing innovative corporate counsel *pro bono* programs, in which corporate staff partner with LSNJ and one or more county Legal Services offices. These efforts have created national models.

Developing specialized statewide *pro bono* panels. In addition to the activity just described, within the last few years LSNJ has begun to supplement local program *pro bono* recruiting efforts by developing statewide specialty panels, to increase visibility and attract lawyers with specialized interests.

Initiation of statewide legal hotline and integrated intake system. The statewide legal hotline was begun in August 1997. The toll free hotline number, 1-888-LSNJLAW, enables clients to pursue a "multi-door" set of access options, with a choice of contacting LSNJ or local programs, either way being referred to the most appropriate service provider – including non-Legal Services legal assistance entities and even non-legal social service providers – for the most appropriate form of assistance. LSNJ operates the statewide hotline in part so that an unrestricted service provider will handle the first point of access calls, ensuring that all eligible callers will be able to receive at least advice specific to their situation, along with any relevant self-help materials, without having to limit this service to just certain types of clients and problems. The current statewide intake standards appear as Appendix VI.

2. Principal areas for improvement in the state's Legal Services delivery system.

The following major areas for improvement of the statewide delivery system were identified during the planning process, both from the findings of the outside consultant (which were based upon his conversations with every Legal Services project director and nearly all program staff throughout the state) and from the input of others who participated in the assessment and planning process.

a. Ensuring core capacities at the provider level. Developing *core capacities* in each program to ensure: (i) the availability of equivalent specialization and consequent expertise in all major poverty law areas within each provider throughout the state; (ii) professional administrative capacity in certain more specialized management areas, such as human resources and development, in every provider; (iii) a sufficient base – a critical mass - of resources to allow the ability to respond flexibly and promptly to newly emerged legal problem areas, cover for staff leave and turnover, and absorb funding fluctuations.

Overall, the consultant concluded that certain New Jersey programs were too small to permit development of such core capacities.

b. Covering all significant legal problem areas. Viewing the state as a whole, ensuring that there is at least some representation available, even if only at a state or regional level, for all significant poverty law problem areas, including those which occur too infrequently to justify representational capacity in every provider.

c. Maximizing opportunity for systemic impact work. The consultant found New Jersey Legal Services local providers comparatively engage in less work devoted to achieving significant impact or systemic change for low income people than is characteristic in a number of other states. He pointed to several factors in explanation for this conclusion:

   i. the endemic Legal Services fact that demand far outstrips resources, creating the inevitable pressure "of the front door" to help as many individuals as possible;
   ii. the perception of some that reporting and contract requirements reward such individual work more highly than efforts toward systemic change;
   iii. leadership and management frequently do not regularly take their programs through processes of explicit strategic planning to achieve designated substantive objectives, and also rarely used their strength and rootedness in their communities – their "clout" – to achieve specific systemic goals; and
   iv. size: smaller programs appear to have less capacity and flexibility to commit significant resources to do this kind of work.

d. Achieving a more integrated intake system. Achieving full implementation of the planned truly integrated statewide intake system, pursuant to the statewide intake standards. These standards need to be followed more consistently.

e. Eliminating duplication and enhancing central administrative support. Eliminating some duplication or multiple "reinvention of the wheel" in areas such as multiple accounting software, telephone system acquisition, web pages, and certain other administrative systems, and generally increasing administrative support.

f. Further improving *Pro bono*. Continuing the current statewide initiative to improve *pro bono* operations in many programs.

g. Adopt more standards, protocols and guidelines. Completing work on various specific statewide standards and other protocols and guidelines for performance and organization.

The foregoing issues frame a significant part of the statewide delivery system challenges for the next three years.

Step Seven – Toward Full Access – Moving Forward In 2002 through 2004: The New Jersey State Legal Services Plan

A. Priority Areas for Concentration – Ten Critical Challenges For New Jersey Legal Services' Next Three Years.

Putting all of the foregoing together, the New Jersey Legal Services system commits itself to the following major areas of endeavor and goals during the next three years, 2002 through 2004. Specific intermediate objectives within these goals will be set annually, at the beginning of each year.

1. Public Funding. Do everything possible to maintain current public funding levels, and then expand them to move closer to the vision of 100% access to necessary and effective legal assistance for all low income New Jerseyans.

2. Reconfiguration. Manage reconfiguration of the majority of the state's Legal Services programs into larger entities, and realize the full potential of such consolidation. See Section B, below.

3. Reporting. Complete work on a new system of measuring and documenting the full productivity of the statewide Legal Services delivery system, including where feasible outcome measurement, to better capture the full range of benefits from Legal Services work in addition to individual case representation.

4. Delivery research. Continue the delivery research initiated by the recently completed first quantitative phase of the Study of the Legal Needs of Low Income New Jerseyans, to focus particularly on when people need lawyers, and then utilizing supplementary qualitative research results to formulate a comprehensive strategy for optimal use of pro se and ADR techniques to expand effective access.

5. Standards. Develop additional statewide system standards and norms, continuing a multiyear project.

6. Awareness. Further increase public awareness of Legal Services, to help undergird a campaign for additional support.

7. *Pro bono*. Continue to increase the capacity of *pro bono* legal resources statewide.

8. Private funding. Continuing to expand Legal Services' non-public funding base.

9. Special representation projects. Implementation of new specialized representation projects on a regional and statewide basis. Additional targeted areas are

environmental justice, education, and transportation, in addition to initiatives already underway.

10. Innovation and technology. Continue the current superb technology backbone, and utilizing it to push innovation in direct delivery and support for legal assistance.

B. The Matter of Reconfiguration.

1. Reconfiguration. As detailed in the most recent three year plan, New Jersey Legal Services programs have carefully analyzed the potential advantages and drawbacks of possible program consolidation at numerous times during the past two decades. Over time New Jersey developed its own set of criteria to serve as a framework for analysis, as set forth in the prior two state plans. Apart from some consolidation within Essex County during the mid-1970's, each time it was determined that the risks and costs of consolidation considerably outweighed proposed benefits. As part of the preparation of this plan, New Jersey providers undertook this analysis once more in 2001.

At the national level, the pace of consolidation has quickened markedly during the past three years. The LSC has created a national expectation of merger – an atmosphere in which states that do not embrace such consolidation can experience considerable pressure and even "reconfiguration" of their "service areas" – the groupings of counties utilized for LSC funding – without the state's consent. The number of LSC grantees is now less than half what it was three years ago. For better or worse, many more programs have become laboratories in which to learn about the effects of such merger. New Jersey tried to take full advantage of this national experience during 2001 by closely studying several states in which consolidation had taken place.

Once again, New Jersey's analysis revealed very substantial costs and risks associated with consolidation. Four are of particular concern:

(a) Increased costs and diminished client services from equalizing staff salaries and benefits in a newly merged program.

(b) Potential for diminished local funding and support, as central program administration moves further from its source, and there is less local identification with the Legal Services programs.

(c) Increased numbers of clients barred from representation by staff Legal Services programs on ethics grounds, because of a larger number of conflicts of interest in a consolidated entity.

(d) Likely increased administrative costs for a larger entity, and potentially decreased flexibility and creativity in the bigger, inevitably bureaucratic setting.

This time, however, the significantly changed national atmosphere, combined with the Tull evaluation findings of certain key limitations (see the earlier discussion of core capacities) of a program environment which was too small, produced a different result. Directors and boards[1] of eleven New Jersey programs have agreed in principle to consolidate into four new entities, as detailed below. In all cases the target date for completion of the merger and functioning as a new entity is January 1, 2003.

Size—building all providers up to a critical mass that supports and ensures the ability to achieve the core capacities discussed earlier in Step Six – is the key consideration which drives each of these mergers. But size considerations also limit each merger. Once the critical mass has been reached, there is not – in the opinion of the planners – a reason to go further. Indeed, going further would be counterproductive, leading to an entity which would be too big, and would lose the critical benefits of locally-based operations discussed earlier.

To ensure the ability to develop and maintain core capacities, New Jersey has adopted a guideline that programs should be between 15 and 50 attorneys. Programs of at least that size are deemed to be of sufficient magnitude to support each of the requisite core capacities detailed in Step Six above. In addition to staff size, the size of the service area, demographic and other characteristics of the affected low income populations, patterns of housing and transportation, program cultures, and other factors were taken into account in configuring the new program service areas. The precise configurations are as follows:

Northwest - combining Warren, Hunterdon, Somerset, Sussex and Morris Counties

South - combining the five counties served by Camden Regional Legal Services with Cape May and Atlantic Counties

Central - combining Mercer, Middlesex and Union Counties

Northeast - combining Bergen and Hudson Counties.

It is important to emphasize that very careful analysis and evaluation underlie these new configurations. Planners looked at a wide range of factors, including the LSC Reconfiguration Standards adopted in late 2001. It is to be noted that a number of the LSC factors were not germane because they have already been achieved in New Jersey. A key example is equity in funding and resources available for clients, which has been achieved for all New Jersey state level

[1] Some formal board approvals are pending, awaiting the next full board meetings.

resources for more than two decades. Key factors causing planners to choose these specific groups, as distinguished from a number of other possibilities, were:

(a) Similarities in the demographics and legal problems of the low income populations to be served.

(b) State Judicial vicinage lines and federal court catchment areas.

(c) The physical geographical size of the new service area, and its administrability (including avoiding areas which would be overly large and unduly difficult to administer).

(d) Factors such as transportation, cultural affinity, area identity, and political groupings which tend to cause counties to clump together or associate.

(e) Compatibility of existing program cultures and effective existing working relationships.

The foregoing factors were applied to create these new areas, finding the following reasons:

Northwest – the low income populations are very similar and have similar problems; there is a general area identity; the five counties are served by other five county organizational groupings; the program cultures are compatible; the five county area defines the outer limits of what would be feasibly administrable; and the plan would include and correspond to the two full judicial vicinages which cover the five counties.

South – the Cape May and Atlantic County areas relate much more to the Camden/Philadelphia corridor, including federal court areas; the close similarities of the rural population problems, especially with regard to farmworkers; transportation patterns and corridors; compatible program cultures and existing working relationships; at the outer limits of administrable geographical size, but better in that regard than the other alternatives.

Central – transportation corridors and patterns; similarities in client populations and problems; compatibility of program cultures and existing working relationships; resulting service area size; area identity.

Northeast – similarities in client populations; transportation patterns; compatibility of program cultures; existing patterns of relationships among low income populations.

Three programs are not included in the consolidations. Essex-Newark is already quite large, and serves by far the state's largest county poverty population, constituting roughly one-third of the state's poor, in a unique intensely urban setting. Ocean-Monmouth Legal Services already has seventeen attorneys, above the established minimum, and covers a huge and largely self-contained geographical area. Passaic County Legal Aid Society also has seventeen attorney positions, and currently faces other issues which militate against merger.

There remains much concern about potential negative effects of merger. LSNJ has agreed to help facilitate each of the mergers, and within the limits of available resources will provide staff time and also try to assist in providing resources to defray reasonable direct out of pocket costs necessary to complete the nuts and bolts of merger, such as the costs of incorporation.

All new merged entities must submit a satisfactory Reorganization Plan to LSNJ and have it approved, in order to secure a commitment for continued funding. The Plan must address each of the elements set forth below.

Review and Approval of Reorganization Plans

The following general principles will govern LSNJ's review of and decisions as to whether to approve, for funding purposes, any proposals for program reorganization or consolidation. They are based on earlier versions initially established in 1995 during Phase One of the New Jersey Legal Services Planning and Reengineering Process.

1. A merger proposal will be approved only if it appears to hold potential for improving the quality or quantity of services to clients, and further appears that such gains are likely to outweigh any costs or drawbacks.

2. In general, the desired target staff size for the resulting program will be between 15 and 50 attorneys, accompanied by appropriate levels of supporting staff.

3. Funding which has its source in a particular county ("county-based funding"), such as United Way or county dollars, must remain in the county providing it, unless the funding source gives permission otherwise.

4. Over time, reorganized or consolidated programs should phase in relative equalization (based on poverty population) of their non-county-based funding among the counties in their service area, with due regard to the possible need to concentrate resources in areas with highly impacted extreme poverty, such as major cities.

5. Current full-time county central offices should remain, in order to maintain a strong presence in and connection to every county, and continue at least current levels of client

access. Physical propinquity of offices to clients is a key value which must be preserved to the extent possible.

6. Existing program staff whose roles may be collapsed or changed must be given every opportunity (and preference if qualified) to fill newly created jobs and roles.

7. Board composition should be proportionate to the client populations and other relevant factors in the participating counties.

8. There will have to be plans for effective mechanisms, which could be county advisory councils or other suitable approaches, to ensure meaningful client and other local input into program policy decisions concerning priorities and services to be provided.

9. Efficiencies and redirections of resources to client services should be achieved wherever feasible through elimination of duplicative functions.

To be approved by LSNJ for funding purposes, any merger proposal between two or more programs must be set out in a formal Delivery Enhancement and Reorganization Plan, which must:

A. Address each of the preceding principles in a satisfactory manner.

B. Be consistent with a comprehensive statewide plan and map as to how the state would best fit together as a whole, and not leave any county or area isolated.

C. Enhance or at least preserve current levels of client access, unless resource cuts make a diminution of access inevitable.

D. Be consonant with client population demographics, ensuring that no major concentration of low-income people would be left without effective access.

E. Detail the key elements of how the program would operate (board organization, staffing, office location, specialization, number and use of paralegals, identity of key personnel, service enhancements or diminutions, location of staff, and use of circuit-riding, among other things). The program CEO and key leadership will have to be satisfactory.

F. Identify all contemplated costs and savings from the reorganization.

G. Describe how any advisory council would be composed and function, or any alternative methods for ensuring local input on questions such as priorities and services.

H. Explain how each county's identity, presence, and local funding would be preserved and strengthened.

I. Describe how intake would be handled.

J. Describe how communication would take place within the program, including across specialty and office lines.

K. Describe how supervision, evaluation and administration would be carried out.

L. Set out the initial plan for allocating all resources.

CONCLUSION

New Jersey Legal Services programs look forward to meeting the challenges ahead, and to further improvement of client services statewide, enhancing an already very successful system.