

*EVALUATION REPORT ON THE PROGRESS OF THE NEW MEXICO
LEGAL SERVICES COMMUNITY IN CREATING A COMPREHENSIVE,
INTEGRATED, AND CLIENT-CENTERED DELIVERY SYSTEM*

Introduction

New Mexico is among the poorest states in the nation. Historically, the State has not devoted much money to the civil legal needs of people living in poverty and was usually ranked about forty-seventh in spending per poor person on civil legal services. Nevertheless, the state justice community in New Mexico has worked long and hard to try to more nearly achieve a comprehensive, integrated, and client-centered delivery system. This effort has been an ongoing-process that began formally in 1995.⁽¹⁾ The effort has involved a diverse group of people: Legal Services Corporation ("LSC") funded providers, other providers, related social service organizations, legal services clients and client representatives, private bar members, State Bar staff, law school faculty and students, legislators, government officials, judges, and others.

Much must be done before equal justice is a reality in New Mexico. Since 1994 more people and organizations have become involved in the efforts to enhance access and the quality of legal services available to those living in poverty. The New Mexico justice community recognizes that the efforts must be ongoing. We have found the process to be daunting and challenging, but we continue to hope that our efforts will make a difference in the lives of people living in poverty.

This report was prepared by the State Bar of New Mexico Legal Services and Programs Committee ("LSAP")⁽²⁾ which has been charged with the state planning functions in New Mexico. The report has been circulated to the Board of Bar Commissioners, the Boards of the four LSC-funded programs that serve New Mexico, various non-LSC programs listed herein, and various funders.

I. To what extent has a comprehensive, integrated and client –centered legal services delivery system been achieved in New Mexico?

A. Important issues that impact upon low-income people within New Mexico

For the last several years, New Mexico has been listed as one of the states having the highest population living in poverty, with an average of 19.3% of its population living in poverty between 1998 –2000 (U.S. Census Bureau 2000). Almost 25% of New Mexico's children live in poverty. The rate of poverty is considerably higher in New Mexico's rural counties. In some instances, poverty among non-urban American Indian communities is as high as 47%.

Low-income New Mexicans are faced with a myriad of legal problems. Those most frequently addressed by legal services programs are: public benefits and entitlements, housing, domestic violence, domestic relations, consumer credit,

employment, and migrant worker issues.

The New Mexico State Plan⁽³⁾ contained the following assessment of the legal needs of low-income people:

Category	Prevalence
Family/Domestic Relations	28,000
Housing/Real Property	23,000
Finances/Consumer	23,000
Community and Regional	18,000
Employment	11,000
Personal Injury	10,000
Health	8,000
Wills, Estate	7,000
Public Benefits	5,000
Business, Farms	3,000
Schooling	3,000
Civil Liberties	1,000
Vocational Training	1,000
Special Groups	4,000

B. Response to the Need

1. LSC-Funded Programs

For more than 30 years, several nonprofit and volunteer organizations have

provided civil legal representation to poor people. The largest organizations are funded by LSC. There are four LSC-funded programs in New Mexico. **DNA People's Legal Services (DNA)** serves San Juan County and people living on the Navajo and Jicarilla Apache reservations with LSC Native American funding. **Community and Indian Legal Services (CILS)**, with basic field funding, serves the remainder of northern New Mexico and one county south of Albuquerque and, with Native American funding, the Indian Pueblos. **Legal Aid Society of Albuquerque (LASA)** serves Bernalillo County. **Southern New Mexico Legal Services (SNMLS)** serves the southern part of the state and has grants to serve migrant workers and the Mescalero Apache tribe.

The LSC programs provide services for a broad range of legal needs as well as specific needs most frequently raised in their areas. For example, **SNMLS** focuses on migrant worker issues in addition to its traditional caseload. **LASA** has had a fair housing project for several years. **CILS** addresses water law issues prevalent in northern New Mexico. **DNA** serves members of the Navajo Nation both on and off the reservation in northwestern New Mexico. Each program serves individuals and families where domestic violence is an issue and have secured Violence Against Women Act funds to support attorneys specializing in this work.

The work of the LSC funded programs will be covered in more detail below.

2. Non-LSC-Funded Programs

There are multiple organizations in New Mexico which provide legal services to low-income New Mexicans in addition to the LSC-funded programs. The non-LSC programs tend to focus their work on a particular legal need or type of client.

New Mexico Center on Law and Poverty is the statewide advocacy program. It was formed out of New Mexico's Support Project as an independent nonprofit organization in 1995. In 1997 the Center brought the class action law suit that challenged welfare reform in New Mexico. It conducts legislative and administrative advocacy regarding the state's Temporary Assistance to Needy Families program, Medicaid and Food Stamps, and other legislative issues which affect New Mexicans living in poverty. Each summer, the Center sponsors an annual two day continuing legal education seminar for 75-80 legal services attorneys, advocates and other providers of legal services to low-income New Mexicans throughout the state. Volunteer attorneys and other professionals join civil legal services attorneys in providing this training. The Center also sponsors a statewide conference call among various civil legal services providers to discuss current topics every other month. Consultation, technical assistance, and information and referral services are also provided on a statewide basis. Systemic advocacy, individual, and class action litigation is undertaken as appropriate.

Senior Citizens Law Office (SCLO) provides free civil legal services to Bernalillo County residents more than 60 years of age. Program priorities are income maintenance, guardianship/conservatorship, power of attorney and other advance directives, issues of financial exploitation, landlord-tenant and public housing problems,

consumer issues, health related issues and long term care issues. Although the Older Americans Act prevents SCLO from income eligibility screening, because of its case priorities most of the clients served are low-income individuals. SCLO's individual and systemic advocacy on a wide variety of elder law issues impacts seniors statewide. SCLO's Medicare advocacy also serves residents of the greater Bernalillo County area and Santa Fe County.

New Mexico Protection and Advocacy System (P&A) is a federally funded, nonprofit organization that advocates for the legal rights of persons with disabilities. Though it is not necessary for a person to meet low-income eligibility criteria to receive service, the vast majority of its clients are of very limited means. The agency handles disability discrimination issues in areas such as housing, education, employment, training and health care. In 1995, it joined with the New Mexico Center on Law and Poverty to successfully litigate to the New Mexico Supreme Court a claim of discrimination on behalf of persons with disabilities receiving general assistance benefits. On the Navajo reservation, DNA runs the Protection and Advocacy program.

Catholic Charities of Central New Mexico among its other services provides free legal immigration services and representation to eligible immigrants to apply for legal status for themselves and their children under the Violence Against Women Act (VAWA). The project provides thorough intake and assessment of the domestic violence and the overall situation, then prepares all the necessary documents to take the case to the Immigration and Naturalization Services or the Executive Office for Immigration Review.

Clinical Law Program of the UNM Law School's mission is "learning through service." The primary objective is education, which is a factor in case selection. The clinic operates as a large law office providing services to income eligible clients under the supervision of one of four faculty members in a specialized area of community service. There is a Southwest Indian Law Clinic serving American Indian communities and individuals. Students have worked with domestic violence shelters, homeless medical clinics, senior center sites, neighborhood associations, rural water user associations and health care facilities. The clinic serves UNM students and staff as well as clients from the community who meet financial guidelines. Students represent poor clients in a wide range of legal matters: landlord -tenant, consumer, family law, zoning, environmental, and wills.

Advocacy Inc. is a nonprofit organization whose mission is to promote the interests of at-risk children by providing legal advocacy and other supportive services. It offers four programs designed to fill the unmet legal needs of children in Bernalillo County: Guardian ad Litem Services; the WAY Program; the New Mexico Guardianship Project; and Information, Referral and Training.

Domestic Violence Legal Resources (DLVR) is a program of Resources, Inc. DLVR is a statewide program that offers free legal information and referrals to victims of domestic violence. DLVR is staffed by a program director, and several volunteer

attorneys. Although DVLR only offers information over the phone, if the caller is a resident of Bernalillo County or any of the surrounding counties, the caller may be referred to Resources, Inc. and the Civil Legal Program for an attorney. If the victim qualifies for services, an attorney will be provided to her free of charge or on a sliding fee basis. Attorneys are provided for divorce, custody, protective order hearings, and other types of cases which may flow from the domestic violence. Resources, Inc. also provides a variety of other services for domestic violence victims, including counseling, groups, children's counseling and groups, and advocacy.

3. State Bar of New Mexico Programs.

Lawyer Referral for the Elderly and Program (LREP) provides legal assistance to persons 55 years of age and older through a legal helpline, referral service and legal workshops and clinics. LREP provides services regardless of income/asset levels, but the majority of the services are provided to low-income senior citizens.

Lawyers Care Program is the general referral and assistance program of the State Bar of New Mexico. Since 1996, Lawyers Care has provided a statewide *pro bono* service to support the LSC-funded programs in New Mexico, accepting overflow and restricted cases due to LSC budget cuts and case restrictions. Lawyers Care also makes full fee referrals of cases not referred by a Legal Services program as well as arranging for short consultation and case assessment for a \$25 fee. Lawyers Care also coordinates Debtor/Bankruptcy/Consumer workshops and clinics for the public, utilizing volunteer attorneys. Following workshop presentations, attorneys are available for individual consultations, providing general information, and screening applicants for possible bankruptcy filing. If the screening attorney determines the individual should file a bankruptcy, then Lawyers Care refers the client to a bankruptcy attorney. Referrals may be *pro bono*, reduced fee or full fee, depending on income, assets and the type of bankruptcy required.

Young Lawyers Division (YLD) of the State Bar of New Mexico sponsors the **Homeless Legal Clinic**. HLC volunteers provide *pro bono* legal services and *pro bono* referrals to homeless persons at the Health Care for the Homeless location in downtown Albuquerque. Many services are brief services. Others require more extensive work and are referred to volunteers who have agreed to accept referrals from the Clinic.

The State Bar also offers programs for the public. These programs benefit the general public, including low-income people. **Lawline 4 Call-Ins** is a monthly "call-in" conducted in partnership with the NBC television affiliate in Albuquerque. Volunteer attorneys provide legal information to persons who call a hotline number advertised by the television station during its evening programming. **Today's Law School** provides general legal information on a given topic in a monthly lecture series. The public is invited at no charge. Sessions on Domestic Relations, Estate Planning and Taxes are the most popular subject matter areas, generating attendance of 75-100 people. In celebration of Law Day, observed on May 1st each year, the YLD hosts **Ask -a-Lawyer** call-in programs providing free legal information to callers. Volunteers work at phone banks in

Albuquerque and several other sites statewide (usually Farmington, Roswell, Las Cruces, Hobbs and sometimes Alamogordo). In the event of a declared disaster, and in cooperation with the American Bar Association and the Federal Emergency Management Agency (FEMA), local volunteers provide *pro bono* legal assistance to members of the community through the **FEMA Disaster Legal Assistance** program. This program has only been implemented once, during the Cerro Grande fire in Los Alamos. In the **Mediation/Arbitration Program with Better Business Bureau** attorney volunteers serve as mediators and arbitrators in disputes of amounts less than \$7,500 between consumers and businesses.

4. Programs Sponsored by the Albuquerque Bar Association.

Legal FACS (Forms and Courthouse Services) runs the Courthouse Volunteer Lawyer Service which uses volunteer lawyers at the district and metro courthouses to advise and provide free instructional materials and legal forms to low-income civil litigants in Bernalillo and surrounding counties, empowering indigent civil litigants to handle their own domestic relations and/or small claims cases. In appropriate domestic violence cases *pro bono* referrals are made, and volunteer lawyers will often represent indigent victims of domestic violence at their restraining order hearings. Additionally, in-house counsel handle a wide range of legal matters for the poor, like powers of attorney, wills, tenant eviction and guardianship cases.

Lawyer Referral Service of the Albuquerque Bar Association provides names and numbers of lawyers by area of practice to callers as well as the option of a thirty-minute consultation with an attorney for a \$30 fee.

All of these programs, together with the LSC-funded programs, form the network that provides legal services for New Mexico's poor.⁽⁴⁾

C. New Mexico's Delivery System

1. Components

The *New Mexico State Plan*⁽⁵⁾ recognized that a viable, comprehensive delivery system must contain the following elements:

- (a) Outreach
- (b) Community Legal Education
- (c) Legal Helpline
- (d) Support for Self Represented Litigants
- (e) Alternative Dispute Resolution
- (f) Private Bar Representation
- (g) Legal Services Representation
- (h) Policy Advocacy/Law Reform/Systemic Change
- (i) System Management/Substantive Support.

As currently configured, the legal services providers are individually responsible for carrying out whichever of these functions are deemed necessary to meet their individual missions. As discussed below, plans are being made to unify three of the four LSC-funded providers, which should enable them to carry on these functions on a more integrated, statewide basis. As is also discussed below, a new venture is being created - *LawAccess* New Mexico - the purpose of which is to provide a single point of entry for all potential clients with advice and brief services being given by *LawAccess* and referrals to all participating providers for more extended services.

C. Mechanisms to Assess the System's Performance

Each LSC program has mechanisms for assessing its own performance in addition to utilizing the ABA standards governing assessing the quality of legal services. Additionally, SNMLS uses self-audits and case acceptance guidelines; LASA uses the self audit, case acceptance and internal review systems; CILS uses self-audits, internal reviews, and annual retreats with outside consultants; and DNA uses self-audits, case acceptance guidelines, and annual retreats with consultants. While the LSAP committee looks at mechanisms for evaluating delivery of service, it has not, to date, assessed performance of the individual components of the delivery system.

D. Availability of Equitable Legal Assistance to All Eligible Clients

The four LSC-funded programs cover the entire state. The two programs that cover the largest geographic areas (CILS and SNMLS) have telephonic intake that attempts to provide minimal access statewide. DNA has a three-state telephonic intake system.

There have been two separate efforts to address the need to provide access to some form of legal assistance for all eligible clients in the state. The Planning Subcommittee of LSAP conceived of and designed *LawAccess* New Mexico, a statewide legal services helpline which is described in detail below. *LawAccess* has been incorporated and can begin initial stages of operation once funding is secured.

The second effort involved developing a process to determine whether three of the LSC-funded programs in New Mexico should "reconfigure" by merging into one statewide program. Over the last year, three LSC-funded programs and interested parties have engaged in vigorous discussion and planning meetings to develop a plan for the formation of a single LSC entity for most of New Mexico. Though planning efforts have moved New Mexico's three LSC-funded programs toward a merger, the process is not complete. This effort is also described below.

When either, or both, efforts come to fruition, New Mexico will be on its way toward providing a comprehensive, integrated system of legal services delivery for low-income New Mexicans.

1. Use of Technology to Increase Access and Enhance Services and Plan

Initiatives to Support the Integrated Statewide Delivery System

a. LawAccess New Mexico

For several years the New Mexico state planning process has been working toward creating a comprehensive, integrated, statewide legal services system. The stakeholders have approached the challenge from several different perspectives. The Planning Subcommittee of LSAP has developed one alternative, the creation of a comprehensive statewide system for telephonic intake and access to legal assistance in New Mexico called *LawAccess* New Mexico.

Several of the legal services organizations have "helplines" for immediate telephonic access to a lawyer who can provide advice and counsel (LREP, SNMLS, CILS, and DNA). There is, however, no uniform statewide method for providing such assistance. Nor do potential clients have access to one well-publicized point of entry through which they could obtain the help they are seeking. Consequently, many potential clients either do not receive assistance because they do not know how to get it, or there is no office close to where they are.

LawAccess was conceived at a consortium of many of the nonprofit organizations that provide civil legal assistance to poor persons in the state in collaboration with the private bar. The mission of *LawAccess* is to provide poor persons in this state with access to advice and brief service through a widely publicized, toll free statewide telephone, subject to income and other eligibility guidelines. The toll-free number will provide entry into a comprehensive, integrated statewide system for helping clients resolve their civil legal problems.

The system will be comprehensive because it will serve as the access point for a full range of services from advice and brief service provided by *LawAccess* staff to full representation, including litigation where appropriate, provided by the legal aid programs staff. The *LawAccess* system will be integrated because it will serve as a principal access point for clients of most if not all the major providers of legal assistance in the state. To avoid duplication, it will be integrated into the delivery approach of each participating provider. *Law Access* will make referrals to the organization most appropriate to respond to the client's legal problem. Finally, the system will be statewide, so that access to civil legal assistance will be available across the state without variation caused by geography, lack of transportation, language, culture or other factors. The system will also provide a variety of contact points, such as targeted outreach for migrant workers and isolated tribes, so that services will still be available to those without access to a telephone.

LawAccess will provide several services. First, it will screen callers for financial eligibility. In addition, it will refer callers who have a nonlegal problem to the appropriate social services organization. Second, it will provide clients who need legal assistance with advice and counsel from a *LawAccess* staff attorney or supervised paralegal. Third, *LawAccess* will provide brief services, such as writing a letter or making a telephone call to a landlord or creditor, where such efforts can reasonably and quickly

resolve the client's problem. Brief services will be limited to activities designed to accomplish easily definable short term goals achievable with one or two hours work. Finally, when advice or brief service is not sufficient, *Law Access* will make legal referrals for clients needing full representation, transferring them to the provider that is best able to assist them. Over time *LawAccess* will develop the capacity to make referrals seamlessly, that is, to transfer a caller immediately to the appropriate legal aid provider along with the ability to transfer case notes online.

LawAccess has recently been incorporated as a nonprofit organization under the laws of the state of New Mexico. It has a functioning board of directors drawn from representatives of the provider organizations participating in the project in addition to private practitioners committed to and having experience in legal services organizations. The board of directors plans to expand to include representatives from legal aid organizations, the organized bar, social service and community organizations, and representatives from the communities to be served.

The board of *LawAccess* is embarking on the initial stages of development. It has applied for a substantial grant from the New Mexico Civil Legal Services Commission to secure funding for the start up phases of the project.⁽⁶⁾ If *LawAccess* gets a significant grant from the Commission, the project could initiate its start-up summer of 2002.

b. Other Uses of Technology

When Indian Pueblo Legal Services merged with Northern New Mexico Legal Services two years ago, the new Community and Indian Legal Services (CILS) instituted a Wide Area Network (WAN) phone system. In that way, all of the legal services offices in the northern part of the state could be connected on a single telephone network. That system has eased communication between the far-flung offices of the CILS program.

LASA has substantially upgraded the computer network in its office.

DNA is developing a website, dnapeopleslegalservices.org, and has functioning computer kiosks in each office that provide *pro se* forms and information in Navajo, Hopi, and English to self-represented litigants.

SNMLS has had a network and centralized intake in Las Cruces for several years. The Clovis and Roswell offices can access the centralized data base over the internet.

The New Mexico Center on Law and Poverty, the state level advocacy project in New Mexico, recently established a web page available to any Internet user, nmpoertylaw.org. The site contains information about the Center's activities, updates on legislative developments, links to relevant web sites and more. The site will evolve over time to better serve the information needs of New Mexico's justice community.

2. Expansion of Financial Resources to Provide Critical Legal Services to Clients Including Hard to Serve Groups

Several sources have given the LSC-funded and other legal services programs access to extra funding which allows them to provide legal services to low income clients and hard to reach groups.

a. Equal Access to Justice, Inc. was incorporated in 1989 to raise funds from the private bar to support civil legal services in New Mexico. The four LSC-funded programs and the New Mexico Center on Law and Poverty receive monies from the fund each spring. The campaign should raise \$188,000 this year.

b. The New Mexico Supreme Court, at the request of the State Bar's Task Force on Civil Legal Services, adopted a rule⁽⁷⁾ that sets an aspirational goal for lawyers of averaging 50 hours per year of *pro bono* service to people of limited means or organizations designed primarily to assist them. It is hard to quantify what effect this rule has had, but the voluntary reporting of *pro bono* hours for 2000 indicates that lawyers have donated time conservatively estimated to have a value of \$15,000,000.⁽⁸⁾ In addition, the rule provides that the aspiration may be fulfilled by contributing \$350 to organizations that provide legal assistance to people of limited means. The State Bar has instituted a check off on the Bar Dues form so that lawyers can easily make this contribution to the Equal Access to Justice Fund or to the State Bar's *pro bono* programs, and thousands of dollars are collected annually.

c. The New Mexico Supreme Court has also adopted an Interest on Lawyers Trust Accounts (IOLTA) program and has recently modified that program to an opt-out rather than an opt-in voluntary program. The pooled account interest is paid to the Center for Civic Values, which administers the IOLTA program. Moneys from this program are used in part to fund civil legal services for the poor. It is hoped that changing the program to an opt-out program will increase the funds available for this purpose.

d. Providers of civil legal services in New Mexico now have another source of revenue. A coalition of private attorneys, legal services programs, and the New Mexico Center on Law and Poverty advocated for the passage of legislation creating the Civil Legal Services Fund and Commission.⁽⁹⁾ The law added surcharges to civil filing fees which are deposited in a fund earmarked to support civil legal services. The Commission will distribute monies through a Request for Proposal process which has just ended. Only eligible organizations may submit proposals. Up to 50 percent of the total Civil Legal Services Fund is available for projects using technology.⁽¹⁰⁾ It is anticipated that the Commission will have \$1.2 million to distribute in June 2002.⁽¹¹⁾ The Civil Legal Services Fund legislation was hard fought over several years. It is a major infusion of funds for providers of civil legal services for low-income New Mexicans.

3. Resources, Technical Assistance and Support Needed to Meet Goals

The merger process has demanded significant time and attention from the legal

services program directors and other participants in the process. As the merger unfolds, the financial implications of this undertaking become more apparent. Although LSC awarded a small grant to further the work of the Transition Subcommittee, that award will not address the costs of the remaining tasks. For example, the Administration Committee is seeking proposals from consultants to consolidate the salary, benefits, collective bargaining agreements and personnel policies of the three merging programs. None of the programs has the financial resources to dedicate to these fundamental consolidation issues. Without significant support, financial and otherwise, it will be difficult, perhaps impossible, to implement the merger plan in a way that enhances access or improves the quality of service to poor people in New Mexico. *See also* Section U.C.

E. Leadership within the Delivery System

The civil justice community in New Mexico consists of those involved in the state planning process and those involved with the providers of legal services, with many people being involved in both aspects. The people involved in the state planning process come from a diverse background. They include men and women, Hispanics, Native Americans, Anglos and African-Americans. Judges, lawyers, governmental officials, legal service program employees, State Bar employees, law school representatives, community representatives, and clients have all participated in the planning.

The various providers have boards that consist of people who are client eligible, people who are in touch with issues in the client communities, lawyers, law professors, business people, government workers, clerics and other religious, and others interested in providing access to low income people. The boards have members who are Hispanic, Anglo, Native American, and African American. The board members include men, women, elders and people with disabilities. Board members also come from a wide geographic area. When the new merged LSC-funded program forms its initial board of directors, the board will be composed of some of the people who currently serve on the boards of the three consolidating programs. In addition, because the new program will receive grants for Native Americans and migrants, board members knowledgeable about issues facing those special communities will be nominated by the Hispanic Bar and various Native American bars. Client members of the new board will come from various geographic regions in the state. Further, in the consolidation process, a substantial amount of time has been spent with clients, including providing training on how to be effective board members and supporting emerging Clients Councils.

The existing programs are led by a diverse group of executive directors: men, women, Hispanics, Anglo, Native American, lawyer and non-lawyer.

F. Next Steps to Achieve a Client-Centered Integrated and Comprehensive Delivery System

This inquiry is answered below in Sections II B, C & D.

G. Obstacles to Achieving a Statewide, Integrated, Client-Centered Delivery

System

The major obstacle to achieving the desired delivery system is lack of funds. The merger process has been severely hampered by lack of funds to support the process. Most work has been done by directors and staff who are also expected to meet all of their other job obligations. The volunteer board members and private attorneys who are participating must take time away from their regular work to participate. Apart from a small grant from LSC, there is no money available to facilitate the integration of the three LSC-funded programs. Money is needed to hire consultants who can integrate the programs finances and administration. Money is also needed to work with consultants on reconfiguring the delivery system to best achieve the goals of greater access and enhanced quality of service.

A second obstacle to achieving an integration of three of the LSC-funded programs is the lack of support for the consolidation on the part of the clients who are participating in the process. Few of the clients believe that a statewide integrated LSC-funded program will better serve their communities. Convincing the clients that consolidation is not an LSC-inspired plot to further weaken legal services programs will continue to take much time and effort.

Other obstacles to achieving a statewide, integrated client-centered delivery system include the large geographic area of the state; the lack of sophisticated telecommunications; multi-cultural and multi-lingual client base; a generally rural low-income population; a low literacy rate, and one of the nation's highest percentage of people living in poverty.

H. Cost-Benefit Analysis to Creating a Statewide, Integrated, Client-Centered Delivery System

The response to this inquiry is addressed in Sections III.C and IV.D below.

II. To what extent have intended outcomes of a comprehensive, integrated and client-centered legal service delivery system been achieved, including but not limited to service effectiveness/quality; efficiency; equity in terms of client access; greater involvement by members of the private bar in the legal lives of clients; and client-community empowerment?

A. Issues impacting Low-Income Persons and Strategies Designed to Address Issues

1. Issues

Providers of civil legal services in New Mexico have identified a range of legal problems in their client communities, including the core 'poverty' issues of housing, income and family relations. Within these broad categories, the following have been foci of legal services work in New Mexico: disability benefits and rights, welfare benefits,

unemployment benefits, welfare-to-work programs, health benefits, landlord-tenant relations, housing quality, affordable housing, housing discrimination, foreclosure and condemnation, domestic violence, child custody, child support, divorce and consumer rights. In addition, New Mexico has the issues of water rights, migrant workers and Native Americans, particularly in the rural parts of the state.

2. Strategies

The four LSC-funded programs in New Mexico utilize individual client representation as the primary mechanism for addressing these client needs. In addition, the programs offer helpline telephone advice services for quick questions. *Pro se* clinics are also utilized, particularly the Divorce *Pro Se* Clinic in Albuquerque, as a way of maximizing services with minimal resource commitment. In addition to the LSC-funded programs, the justice community includes organizations such as the New Mexico Center on Law and Poverty (advocacy and impact litigation), Protection & Advocacy (disability rights), Senior Citizen Law Office, the State Bar Lawyer Referral for the Elderly, Advocacy, Inc. (guardianship for children), Catholic Charities (immigration), Resources, Inc. (domestic violence helpline and legal representation), El Refugio (domestic violence legal representation), Legal FACS (*pro se* services and referral), and State Bar Lawyers Care (*pro bono* and sliding scale referral).

The State Bar's Legal Services and Programs committee provides a valuable forum for the discussion of the needs of our client community. Both the private bar and providers participate on the Committee which has provided significant leadership in the state planning process. That process identified the need for a statewide single point of access helpline in 1996. The work on this vision for a statewide legal access point has been ongoing and its result, *LawAccess* New Mexico, was incorporated in 2001.

The First, Second, and Third Judicial Districts, covering the Albuquerque, Santa Fe, and Las Cruces metropolitan areas, have Courthouse Booths, providing assistance to *pro se* litigants through volunteer attorneys, that have been tremendously useful in addressing the needs of the community. The Metropolitan Court in Albuquerque has both a limited Courthouse Booth and a social service provider, Catholic Charities, provides assistance to *pro se* litigants on both legal questions and social service referrals.

B. Expanded Access to Services Through Coordination among Providers

Increased coordination among providers has taken place on a number of fronts. The LSC-funded programs are continuing their collaboration in the area of domestic violence with the SASA (Statewide Assistance to Survivors of Abuse) project. Domestic violence providers have established a uniform system of referral in several areas of the state, with the parameters coordinated and agreed upon by the LSC-funded providers. Providers are expanding the project through subcontracts to provide legal representation to their clients with state TANF funds.

If funded, *LawAccess* New Mexico will substantially expand services as it will

be funded entirely with state funds from the Civil Legal Assistance Fund, established in 2001 through a filing fee add-on. *LawAccess* has obtained firm commitments from providers in New Mexico to utilize *LawAccess* as the primary point of access for legal services. *LawAccess* has developed through the collaborative efforts of the private bar, the State Bar of New Mexico, legal services providers and others serving people living in poverty.

The Civil Legal Assistance Fund is the result of significant collaboration efforts by the private bar, legislators, the New Mexico Center on Law and Poverty, and legal services providers, particularly the LSC-funded programs. These stakeholders worked together closely over several years in developing the political support for a filing fee add-on. The governor had twice vetoed similar legislation, but through the concentrated efforts of these participants, the bill gained both legislative and gubernatorial support. As a result, substantial state funding will be available beginning in June 2002 resulting in increased services throughout New Mexico.

C. Improved Quality of Services

The quality of legal services in New Mexico has improved through statewide training and collaboration. The SASA Project has been a mechanism for training on domestic violence law for advocates throughout the state. The New Mexico Center on Law and Poverty offers statewide legal services training each summer which has served as a focal point for advocates to network statewide and to obtain training in the poverty law issues most affecting our clients.

The focus of the work of the state justice community in the area of improved quality of services has been through development of *LawAccess* and work on the merger. Although these projects have not yet resulted in changes in the delivery of legal services, it is hoped that the resources committed to the change in the service delivery system in these two areas will have the long term effect of improved quality of services. This will happen in two ways: (1) through allocation of the advice and counsel function to *LawAccess*, the legal services providers will be able to concentrate their resources on extended representation; and, (2) through the merger, clients will receive services through a single statewide program which will have more capacity to share legal resources and develop integrated strategy to achieve systematic change.

LSAP has facilitated the merger. In 2000-2001, following the request by the Legal Services Corporation that merger be considered as a better way to meet client needs, LSAP convened a Configuration Committee which involved legal services staff, board members and private attorneys. The Configuration Committee met several times and devoted substantial time and energy to studying the issues raised by the Legal Services Corporation. The Committee ultimately decided to recommend merger to the three LSC-funded programs that provide services exclusively in New Mexico. The boards of LASA, CILS and SNMLS adopted this proposal.

During the summer of 2001, a Transition Committee was convened which

included from each program: three board members, three management staff, three non-management staff and clients. (The Transition Committee has been facilitated by Sarah Singleton, former state bar president and co-chair of the LSAP Committee. Ms. Singleton's work has been invaluable as she has kept the Committee organized and provided important logistical and other support). The Committee agreed to meet bi-monthly, rotating the location of the meetings between the southern, northern and central parts of the state. The first meeting was held in Taos, New Mexico. At that meeting, three subcommittees were formed: Governance, Administration and Regions. The Governance Subcommittee was charged with developing a plan for the board of directors and by-laws; the Administration Subcommittee was charged with planning for the administrative and staffing structure, financial administration, and salaries and benefits; and the Regions Subcommittee was charged with identifying a plan for dividing the state into regions with regional advisory boards.

The members of the Transition Committee have found the experience to be difficult. The work of the subcommittees has been hampered by the communication difficulties inherent in the vast geographical distances of the state, by the differences in culture of the three different programs, by the lack of resources to devote to the work of the merger, and by the sense of many members of the Committee that this merger was undertaken only because LSC had required it. The Executive Directors and staffs of the programs have their regular job responsibilities to fulfill, leaving little time or energy for the merger project. The board members of programs have their own law practices that often take precedence over the substantial time commitments demanded by the merger process.

The process has also been plagued by the uncertainties inherent in such a substantial change; both staff and management have concerns about their futures with legal services given the dramatic changes engendered by a merger. With the merger on the horizon, two of the chief financial officers of the three programs have either left or given notice of leaving; the third program's bookkeeper has left; and vacant positions are not being refilled given the uncertainty about whether these positions will exist after the merger takes place. In addition, both SNMLS and LASA have left unfilled Director of Litigation positions. These staffing problems have made the regular work of the LSC programs much more difficult, even without the time and energy commitments required by the merger. The single biggest problem with this process is that the people who are charged with carrying it out simply do not have the time or resources to do so.

LSC did award a small grant to be utilized for the work of the Transition Committee. This grant has been used to hire a consultant, Gerry Singesen, whose participation has been invaluable in moving the merger process forward. Unfortunately, this small grant will not address the need for a financial consultant to merge the financial systems and set up a new financial process for the new program; the need for a consultant on the union issues (two of the programs are unionized, one has a collective bargaining agreement and one is in the process of negotiating a collective bargaining agreement); the need for a consultant on the human resources, salary, benefits and personnel policies, or a consultant on the technology issues. The programs are using different versions of Kemp's

Clients software and only CILS has a WAN. LASA has a network in its office and SNMLS has a network in its Las Cruces office. The technology issues, e.g., merging the client databases so that conflicts may be adequately checked and reports produced for LSC and other funders, are massive. None of the existing programs has the capacity to deal with the need for creating a uniform technology system.

Despite the resource problems confronting the Committee, progress has been made. At the meeting in April 2002, the Committee approved a Memorandum of Understanding that will be submitted to the Boards of the three programs for final approval. The Committee also approved a plan for membership of the Board of Directors which will ensure geographic diversity with specific positions designated based upon the Migrant and Native American grants received by the programs. The Committee also made a decision not to divide the state into regions with regional advisory councils but to shift the focus of the Regions Committee to service delivery issues. The Administration Committee is seeking proposals from private consultants on the work facing it in bringing together the salary, benefits, collective bargaining agreements and personnel policies of the three merging programs, and a consultant has been retained to do much of this work..

D. Improvement in Relative Equity of Client Access for All New Mexico Low-Income Clients

The Equal Access to Justice Fund ("EAJ") has been the primary fundraiser for the LSC-funded programs in the northern half of New Mexico. SNMLS made a decision to 'buy in' to the EAJ Fund and, in 2001, asked that its buy-in be moved up one year. Thus, the campaign that was held in the fall of 2001 was the first statewide fundraising campaign. This campaign is addressed to the private bar in New Mexico and serves as an important source of funds for the LSC-funded programs and the New Mexico Center on Law and Poverty. Extension of the campaign statewide will increase resources available for the legal work of the programs and serves the additional purpose of bringing the needs of our clients to the attention of a wider audience of private attorneys.

A goal of the LSC-funded programs has been diversification of funding in order to increase the availability of services. In addition to the EAJ campaign, increased funding statewide will be achieved through access to the Civil Legal Services Fund authorized by New Mexico in 2001. LASA was certified as a HUD Housing Counseling Agency and received a HUD grant in 2001. This diversification will complement the HUD Fair Housing funding received by LASA and will ensure increased access to services for clients in the metropolitan Albuquerque area. Another area in which statewide access has improved has been LASA's continuing collaboration with the New Mexico Commission for the Blind. Through this collaboration, highly experienced staff provide training for staff and consumers of the Commission on the complex regulations governing disability benefits for working persons with visual impairments and direct representation of the Commission's consumers. In the expectation of the broader service delivery area resulting from the LSC-funded program merger, LASA has also provided limited fair housing assistance in discrete areas outside of Bernalillo County. LASA's experiences in these areas will support expanded fair housing funding when the LSC-

funded programs merge. DNA, located in the Four Corners area, has also received HUD fair housing funds for a housing discrimination project.

With respect to service delivery, the legal services programs in the community have, as discussed earlier, focused their resources on the development of *LawAccess*, a statewide advice and referral helpline, and the merger of the three main LSC-funded programs. All of the programs are sensitive to the needs of our diverse client population and access is ensured through provision of interpreters, availability of staff with non-English language skills, handicapped accessibility of the offices, home visits for disabled clients and use of services such as the New Mexico RELAY telephone system for the deaf.

E. Efficiency of the New Mexico Legal Services Delivery System

Legal services providers have made substantial efforts to ensure that the New Mexico service delivery system is as efficient as it is effective. Different systems are in place around the state in response to the needs and resources of those communities. DNA, CILS, LASA, and SNMLS have established telephone intake systems to make the most efficient use of resources in addition to making services readily available given the geographical size of the state, the remoteness of many of the service areas, and the transportation problems confronting their clients.

F. Expansion of the Involvement of Private Bar in Delivery of Legal Services

The State Bar of New Mexico continues to provide some *pro bono* referral through its Lawyers Care program. The State Bar has an active Legal Services and Programs Committee that meets regularly to coordinate and provide assistance in the planning process, including the development of the *LawAccess* model and the merger. LSAP has three active subcommittees: Planning, *Pro Se* and *Pro Bono*. The *Pro Bono* Subcommittee serves in an advisory capacity to the State Bar's referral projects, promotes unbundled legal services, and has completed and periodically updates *The Don Quixote Project: Pro Bono Opportunities for New Mexico Attorneys*, a list of all *pro bono* projects in New Mexico with contact information. This resource list was included in a mailing of the *Bar Bulletin*, the official publication of the State Bar of New Mexico. The *Pro Bono* Subcommittee has recently approved a new project to meet the legal needs of undocumented persons. Lawyers Care has established a *pro bono* referral network focusing on the legal needs of cancer patients, particularly those with breast cancer.

The *Pro Se* Committee has been somewhat inactive since the New Mexico Supreme Court established a Self Represented Litigant Task Force. The Task Force is providing substantial direction on the issues of *pro se* litigants and providing an important forum statewide for addressing those needs. The Administrative Office of the Courts has received funding to improve access to information for *pro se* litigants on the Internet. The *Pro Se* Committee in the past developed several types of forms for use by

pro se litigants. Completion of this project is anticipated in May 2002.

In addition, LASA continues to recruit *pro bono* attorneys to teach its *pro se* divorce clinic and to provide extended representation in domestic violence and fair housing cases. All of the LSC-funded legal services programs in the state utilize Lawyers Care for *pro bono* referrals. SNMLS has been successful in involving private lawyers in rural areas through its use of Private Attorney Involvement (PAI) reduced fee contracts as an incentive for solo practitioners to provide legal services to low-income clients. Most of these lawyers could not afford to take these cases regularly on a *pro bono* basis. CILS involves the private bar as co-counsel on appropriate cases. The expansion of the Equal Access to Justice Fund statewide will serve to involve further the private bar through financial support of legal services.

III. To what extent are the best organizational and human resource management configurations and approaches being used?

A. Current Program Configuration

1. General. The delivery of legal services to low-income clients in New Mexico is accomplished mainly by the LSC providers, the New Mexico Center for Law and Poverty, and the private bar in the form of *pro bono* and reduced fee contracts under PAI. There also exist other small programs which deliver services to specific groups of people with specific legal problems. Many of the clients in these groups are persons who fall within the LSC definition of low-income. Three of the LSC programs are in the process of merging into one state-wide program. The plan is for the programs to be merged by the beginning of 2003. DNA, a Native American LSC program, which operates in the northwest part of the state, is not involved in the merger plan.

2. Funding-LSC Programs. It has been estimated that LSC-funded programs provide 90% of the legal services provided for New Mexicans living in poverty. The LSC programs serving most of the State⁽¹²⁾ are funded by LSC as follows: \$2,401,365 from Basic Field-General, \$78,827 from Basic Field-Migrant Worker, and \$419,855 from Basic Field- Native American, for a total of \$2,900,047. In addition, the LSC programs also receive approximately \$954,000 from funding sources such as federal and state grants, foundations, fund raising programs and United Way. These funds are not all for general assistance but are designated to do specific work and specific cases. However, most of the clients served by these grants are low-income. Thus, the total funding available to the three programs is \$3,854,047. DNA receives a Native American grant of \$20,200 for portions of New Mexico, and a basic field grant of \$235,000 for San Juan County. DNA also receives a Native American Protection & Advocacy Grant of \$250,000.

3. Funding-Non-LSC components. This year, legal services providers can expect to receive an undetermined amount of funds from the Civil Legal Services Commission of New Mexico. The Commission fund should generate approximately \$1,200,000 annually. The money will be granted to nonprofit organizations which

provide legal services to low-income people in the state. In 2002 the non-LSC money estimated to be available to all providers, excluding those non-LSC funds already discussed, is \$938,400. PERLS, *Chart of Significant Fund Raising Activities of Legal Services* (Jan. 24, 2002). Some of this money goes to LSC-funded programs and some to non-LSC-funded programs.

4. Value of work done by Private Bar Component. The private bar component of the delivery system is composed of Lawyers Care, LREP, Private Attorney Involvement (PAI) program, and general *pro bono* work (cases handled by the private bar which came to the individual private attorneys from a source other than a referral program which counted the number of cases referred). For the LSC-funded providers, 12.5% of their LSC funds are used for PAI. The State Bar's LREP referred 606 *pro bono* matters to private attorneys in 2001. Lawyers Care was able to refer 66 *pro bono* cases to private attorneys in 2001. In addition, Lawyers Care assisted 300 people in its Consumer Debt Workshop, and about one-third of these were referred for a *pro bono* or reduced fee bankruptcy. The number of *pro bono* cases handled by the private bar which are not referred from a data-gathering entity such as Lawyers Care or LREP cannot be substantiated. A conservative estimate of the value of the private bar component ascertained from voluntary reporting of *pro bono* hours is \$15,000,000.

B. Other Configurations that Have Been Considered and Are Being Considered..

1. Past. State planning in New Mexico has been happening since 1995. Generally, the view since the early days has been that delivery configurations would have to include several components and the provision of services would have to be done through a state-wide effort. The components of such a delivery system included the concepts that 1) the program must try to provide service to every low-income person with a legal need; 2) the system would have to have significant input from the state; 3) the system would have to have major players besides the LSC programs; and 4) that self-help would have to be an important part of the system, because of the impossibility of providing one lawyer for each legal need.

In order to create the needed system, the plan was to 1) use outreach to reduce the percentage of legal needs where no action is taken to resolve the need, 2) use community education to increase the number of people able to deal with their needs outside of the legal system, 3) implement a helpline to provide advice and brief service, 4) provide group representation for some legal needs, 5) maintain the level of participation of the private bar, and 6) expand the number of legal services staff attorneys. The plan envisioned that the system would need about \$12,000,000 of public money.

After the creation of the original plan, the Configuration Committee engaged in discussions about the structure of LSC programs in New Mexico. In the spring of 2001, three of the programs - CILS, LASA and SNMLS - committed to the principle of pursuing and creating a single, statewide program funded by LSC where only one of the

programs would apply for funding from LSC, with sub-grants to the remaining two programs. DNA was not part of the merger.

2. Present and Future. The present and developing plans will have the following components:

a. LSC Programs. By the beginning of 2003, CILS, LASA, and SNMLS will have merged into a single program. LSC funded SNMLS for 2002, and SNMLS provides CILS and LASA funds through a sub-grant agreement. The programs are in the process of creating one new program through use of the Transition Committee which consists of board members, management, staff and clients from each program area. The status of significant components of the new program is as follows:

1. 2002 LSC Funding Application	Done and approved by LSC
2. Sub-grant Agreement	Done and approved by LSC
3. Governing Board Structure	Done and approved by Transition Committee
4. Memorandum of Understanding	Approved by Transition Committee; submitted to Boards for Approval
5. New Program Corporate Structure	Planned for July 2002
6. Hiring of New Director	Planned for Fall 2002 (finances permitting)
7. New program budget	In process of developing
8. Delivery System	In process of developing
9. New benefits package	In process of developing
10. Union or non-union	In process of developing

Though the new program is still developing, it is possible to predict the structure of some of its basic components. These include:

1. A governing board drawn from every part of the state, including members with an interest in Native American and Migrant farm workers who are served by LSC funding aimed at these groups.
2. An executive office in Albuquerque.
3. A greater emphasis on work which addresses systemic or impact problems.
4. Greater use of technology to connect the program offices to a centralized data base and to other programs such as *LawAccess*.
5. A stronger connection to client needs by supporting Clients Councils.
6. A stronger effort to obtain scarce non-LSC funding.
7. Possible participation in the single point of entry concept, i.e. *LawAccess*.

b. LawAccess New Mexico. The plan for the future state-wide delivery system still retains the concept of a centralized intake and helpline. *LawAccess*

would be a separate program, independent of the legal services providers, that would do intake for all New Mexico programs that assist low-income people; provide advice and counsel where appropriate; and refer people to programs that could assist them further. This is the single point of entry concept. The original plan was based on two sources of funding—the LSC technology grant and the New Mexico Civil Legal Services Fund. With the LSC grant the LSC programs would connect their merged program offices to the centralized intake center and helpline. However, the details of the plan may have to be revised because the LSC programs did not get a technology grant from LSC. Without significant new funds from LSC, the plan to connect offices to *LawAccess* will not be realized. The basic plan of utilizing a separate entity to do intake and advice and counsel remains; however, lack of funding from LSC may force the program to change or postpone some components.

c. Private Bar. The role of the private bar will continue to have all the components discussed above; however, a state-wide LSC program will be better able to assist the private bar in its *pro bono* and *pro se* work.

C. Any Duplication in Capacities or Services in the State.

Until 2002 the LSC configuration in New Mexico was four basic field service areas and, of course, four programs. In 2002, LSC included all of New Mexico, except DNA's service area, in one service area but allowed the existing programs to operate under sub-grants. The result is that three program areas now operate under one grant. There are still, however, three accounting systems, three resource management systems, and three case management systems. In addition, the other participants in the justice community and the clients have to deal with three separate programs.

D. Any Innovative Service Delivery Systems that May Have Been Adopted.

The state-wide planning efforts that have been on-going for several years will bring significant changes to the state-wide delivery system, but these changes will not be implemented until 2003. Whether these efforts will result in significant changes depends in large measure on whether they are adequately funded. The merger process that three of the LSC-funded programs are undertaking is seriously hampered by lack of funds to support the process and to support the increased level of staffing the consolidation will need. The single point of entry concept has already had to scale back its original design because of the failure of LSC to award the New Mexico programs a technology grant that would have enabled the LSC-funded programs to acquire the technology needed for their full participation. The viability of the scaled down concept depends on whether funding will be made available from state funds.

Conclusion

It is the hope of LSAP that this report has answered some of the questions put to it by LSC about New Mexico's state-planning activities towards a comprehensive,

integrated and client-centered justice community.

1. See Final Report of the Task Force of Legal Services to the Poor (December 13, 1996), attached as Appendix B to the State Bar of New Mexico Legal Services and Programs Committee, *Legal Services Corporation State Plan* (1998)[hereinafter *NM State Plan*].
2. The LSAP Committee is composed of various subcommittees: the *Pro Bono* Subcommittee deals with the State Bar's *pro bono* projects; the *Pro Se* Subcommittee explores issues regarding self represented litigants; the Planning Subcommittee deals with delivery and systemic issues; the Transition Committee (formerly known as the Configuration Committee) deals with the merger of three of the four LSC-funded legal services programs in New Mexico. The LSAP Committee was formed by the State Bar, and it reports to the Board of Bar Commissioners, the governing body of the State Bar of New Mexico.
3. *NM State Plan*, p. 5.
4. An additional significant but unmeasured source of representation for poor people is the private bar's *pro bono* contribution that is generated outside of any organized referral program.
5. *NM State Plan*, p. 13.
6. The Civil Legal Services Commission was established pursuant to state legislation in 2001.
7. Rule 16-601, NMRA 2002.
8. People in charge of the State Bar's *pro bono* referral projects believe this number considerably underestimates the number of *pro bono* hours.
9. NMSA 1978, § 34-14-1, *et seq.* (2001).
10. Civil Legal Services Fund, 2.40.3.9 NMAC.
11. The Commission received 11 proposals requesting \$2.36 million for the first year of funding.
12. In 2002 SNMLS received the grant for all of the State not covered by DNA and entered into subgrants with LASA and CILS.