

REPORT ON THE STATUS OF STATE PLANNING IN VERMONT

Submitted to the Legal Services Corporation
October 2002

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To what extent has a comprehensive, integrated and client-centered legal services delivery system been achieved in Vermont?

1. What are the important issues that impact upon low income people within Vermont? How is Vermont responding to these issues?

For the last two years, Legal Services Law Line of Vermont has worked with attorneys from the private bar, members of the judiciary, the Court Administrator's office, Vermont Legal Aid, the Vermont Low Income Advocacy Council, the Vermont Bar Association, and the Vermont Law School, as part of the Committee on Equal Access to Legal Services, a committee chartered by the Vermont Supreme Court.

The Committee began by conducting a detailed assessment of current civil legal needs among low income families in Vermont. With assistance from the Legal Services Corporation, the Committee contracted with the Market Research and Consulting Division of ORC Macro to conduct a telephonic legal needs assessment of low income families in Vermont. The questions were designed to reveal the number and type of legal problems encountered by these families and learn how their problems were dealt with, what assistance was provided, what results were achieved, and what difficulties were encountered in navigating the legal system. The survey covered housing and utility problems, education problems, immigration, discrimination, family law problems, government benefits, health care issues, consumer problems and employment problems. It collected demographic information and information on the respondent's awareness of sources of help with legal problems. Whenever a family identified a legal problem they had encountered in the previous year they were asked what action they took to deal with the problem, whether they got any assistance in resolving the problem, and whether they felt the problem was resolved fairly. The survey was conducted over seven weeks by contacting 2,441 households. Full interviews were completed by 672 respondents. Four hundred thirty six (436) of these respondents were identified as members of low-income households, defined as households living below 187.5% of the Federal poverty guidelines.

The telephone survey revealed that all of the low income households confronted 59,606 civil legal problems in the year prior to survey. This represents more than one legal problem per year for each of the approximately 55,000 low income households in Vermont. More than half of the households experienced more than one legal problem per year. Twenty-four percent (24%) had a consumer problem, while another 21% reported a housing or utility problem. Twenty percent (20%) of low-income households encountered government benefits and health problems while 17% of households experienced family law problems.

Only 9% of the respondents who reported a legal problem indicated that they got legal help from a legal services organization, the courts, or a private attorney. Another 16% received assistance from social service organizations, government agencies, friends or family members. The most common response of low-income Vermonters faced with a legal problem was to attempt to deal with it on

their own. Forty-five percent (45%) of respondents reported that they took care of their problem themselves without assistance from an organization or individual. This indicates that, statewide, approximately 26,823 households tried to solve their legal problems on their own. The second most common response when confronted by a legal problem was to take no action at all. Almost 30% of respondents, equivalent to over 11,000 households statewide, took no action at all when faced with a legal problem. Thus, almost three quarters (74.9%) of the respondents who reported a legal problem said that they did not get any help dealing with that problem and nearly 30% of this group did nothing at all.

There was a significant difference in the perception of fairness between households who received help with their problem and those who did not. Thirty six percent (36%) of the households who had a legal problem said that the resolutions were fair while almost half (49.2%) said the resolutions were unfair.¹ People who did receive help were significantly more likely to feel that the system was fair. Fifty-eight percent (58%) of the respondents who received help believed their problems were resolved fairly, while only a little more than a third (35.9%) of those who tried to solve their problems without help perceived that they had been treated fairly. Almost three-quarters of the people who did receive advice or information described the advice or information they received as helpful.

The ORC Macro survey also received and tabulated responses from an additional 236 households who did not qualify as low income under the income guidelines but showed indicia of lower income based upon responses to preliminary questions in the questionnaire. These households also showed a high incidence of legal problems, .8 problems per household per year, although it was significantly below the 1.1 rate experienced by the qualifying low income households. The number of housing, government assistance, family and health problems was lower in this group while the number of employment related problems was higher. Many more of these “higher income” households sought and received assistance with their legal problems (22% as opposed to only 11% of low income households) and only 14% of these households “did nothing” when confronted by the legal problems, compared with the 25% of low income households who took no action.

Approximately 10% of households in Vermont do not have telephones. In order to get an adequate picture of the civil legal needs of this group more than 400 surveys were sent to 89 organizations including all of Vermont’s community action programs, domestic violence shelters, area agencies on aging, senior centers, the Vermont Center for Independent Living, and homeless shelters. These organizations were asked to identify low income clients without telephones and help these clients fill out a survey of their legal needs. Clients were also encouraged to complete the survey by calling an 800 number to be surveyed by a legal services intake specialist. The results showed a significantly higher incidence of legal problems for the non telephone households, a rate of almost 4.3 problems

¹ Fourteen percent (14%) of the respondents did not express an opinion regarding fairness.

per household compared with a rate of 1.1 problems in low income households with telephones. The most frequently mentioned legal problems were difficulties with health care and government assistance programs (29.4%) followed by family (21%) and housing (21%) problems. Consumer problems and employment problems were much less frequent.

The results of these surveys are discussed in the Committee's Report on Investigation of Need and Assessment of Resources which was presented at the annual meeting of the Vermont Bar Association in September of 2001 and is attached to this Report.

The results of the surveys of low income households confirmed some key principles that guide our priorities decisions and set out some challenges for legal services in Vermont.

The number of civil legal problems encountered by low income households in Vermont is far too great to allow anything close to full representation on all problems. While the "most critical legal needs" should receive full service representation, other critical legal needs, including some housing, benefits, and income issues, can be met by high volume, efficient legal services that assist and support the large number of people with low incomes who seek to solve their legal problem themselves without a full service attorney.

Most low income Vermont families are handling their legal problem on their own.² Many of these families are not receiving any legal assistance. Limited legal assistance can and should reach more of these families. It is very likely that limited legal assistance to more individuals who need it and are asking for it will result in better presentation of facts and issues to adjudicatory bodies, better decisions and greater satisfaction with the fairness of the legal system.

Furthermore, people with low incomes (and perhaps people with moderate incomes as well) have so many legal problems they must be able to advocate for themselves. In other words, being able to advocate for oneself is a necessity given the complex social and economic system we live in. Legal services can and should help people to use legal resources effectively and become better advocates for themselves.

Counsel and advice is not sufficient and should not be considered acceptable for some of the "most critical" legal problems. Nevertheless a high volume counsel and advice program has a critical role in identifying the "most critical" legal problems and working to insure access to full service

²A recent report of the Vermont Office of the Court Administrator confirmed the steady increase of pro se litigation in the Vermont Courts. Nearly 70% of domestic cases filed in fiscal year 2001 had no attorney representation on either side.

representation where it is needed. A high volume counsel and advice program such as Law Line casts a broader net than a legal services program focused on a restricted set of “most critical” full service cases. Therefore it can uncover “most critical” cases that would otherwise be missed. Vermont Legal Aid is available to people with low incomes to provide full representation in “most critical” cases. Law Line works to focus full service representation on the most critical cases and works closely with Vermont Legal Aid to try to ensure that people receive legal assistance appropriate to their need.

With these principles in mind the Committee on Equal Access to Legal Services is developing an action plan for Vermont. The action plan will focus on three areas: legal services, pro se assistance and pro bono services.

2. What are the components of the delivery system?

Vermont Legal Aid, in conjunction with Law Line, has created an integrated intake system which processes requests for legal services from anywhere in the State. The initial point of contact is a Vermont Legal Aid intake specialist who can be reached by visiting or calling one of the five local offices located in Burlington, Montpelier, St. Johnsbury, Rutland, and Springfield or by calling a statewide 800 number for telephone intake by Vermont Legal Aid intake specialists in Burlington. The intake specialist enters information about the potential client, including family composition, financial information and a problem description into a customized case management database. Based on detailed screening guidelines, the intake specialist responds in one of several ways. He or she may refer the caller to a local resource, assign the case to a Vermont Legal Aid project, or refer the case electronically to Law Line where it will be assigned to an attorney or paralegal or referred to a pro bono attorney through the Vermont Volunteer Lawyers Project.

Legal services are also provided to low-income Vermonters through the voluntary *pro bono* efforts of Vermont attorneys. The Vermont Rules of Professional Conduct make it the responsibility of individual attorneys to help provide free legal services. All attorneys are expected to provide at least fifty hours of *pro bono* legal services per year, at least twenty five hours of which should be legal services provided without fee or expectation of fee to persons of limited means or organizations designed primarily to address the needs of persons of limited means.

One of the primary mechanisms for providing *pro bono* services to low-income clients has been through the Vermont Volunteer Lawyers Project, part of Law Line, which coordinates the intake and placement of cases for low-income clients to members of its *pro bono* panel. In addition, free legal services are offered to low-income clients by individual attorneys and law firms. Court-based free legal advice clinics are operated in four counties by local bar associations, and some courts maintain

lists of attorneys willing to take *pro bono* cases in several specialized areas.³

3. Has this system created mechanisms to assess its performance in relationship to commonly-accepted external guides such as the ABA Standards for Providers of Civil Legal Services to the Poor, the LSC Performance Criteria or some other set of objective criteria? What is the protocol for undertaking system performance review and when was a review last undertaken?

Vermont Legal Aid has adopted draft standards based on the ABA standards. Legal Services Law Line has not adopted performance criteria nor have they undertaken a review of performance using performance criteria.

4. Does the statewide system work to ensure the availability of equitable legal assistance capacities to clients -- regardless of who the clients are, where they reside or the languages they speak? How does the system ensure that clients have equitable access to necessary assistance including self-help, legal education, advice, brief service, and representation in all relevant forums? Please describe what steps you anticipate taking to ensure equitable access in the coming years.

Vermont is a primarily rural state with many isolated communities. There is little public transportation. Weather complicates the isolation of many low income families and makes it difficult for them to travel to courts, welfare agencies, food shelves, and legal services offices.

We have five local offices and six 800 numbers for clients to use to get to an intake specialist at Vermont Legal Aid. Law Line of Vermont and Vermont Legal Aid use telephones and web sites to reach remote areas and actively assist lay advocacy organizations in Vermont. Our case data shows that we have clients in every part of the state.

Historically Vermont has not been home to diverse cultures or ethnic groups and legal services have been able to rely on English to communicate with clients. However, Vermont's status as the second whitest state in the nation is changing as more and more people from other cultures move here. There are now significant Bosnian and Vietnamese populations in the northwest part of the states and there are some Spanish speaking migrant workers in the farming areas. Law Line and Vermont Legal Aid are planning to develop an ability to handle non-English speaking clients.

³ For example, many probate courts assign guardianship cases involving low-income clients on a *pro bono* basis; other courts regularly appoint private attorneys on a *pro bono* basis to represent children in complicated family law cases.

5. How does the legal service delivery system employ technology to provide increased access and enhanced services to clients throughout the state? What technological initiatives are currently underway and how will they support the integrated statewide delivery system?

Legal services programs use telephone, web access, email and fax to communicate with clients in remote areas. For example, if Law Line, whose only office is in Burlington, has assisted a client in Westminster with an eviction answer, it can send that answer to the client via any nearby Vermont Legal Aid or pro bono attorney office using email or fax. The client can then go to the local office and get the pleading for them to review, sign and file.

Vermont Legal Aid and Law Line share a wide area network. We have developed a common case management system which allows us to store case information, enter case notes, keep time records, provide reports and data, and transfer cases among offices electronically. We are coordinating efforts to buy or develop a new case management system which enable us to better coordinate information, including email and word processing.

Law Line and Vermont Legal Aid have established a web site for clients at www.vtlawhelp.org. The site contains information on legal resources, housing, consumer law and family law and links to the Vermont Self Help Center at www.vermontjudiciary.org. Law Line has received a 2002 Technology Initiative Grant to expand and further develop its web site.

6. How has the legal service delivery system expanded its resources to provide critical legal services to low income clients including hard to reach groups such as migrant farm workers, Native Americans, the elderly, those with physical or mental disabilities, those confined to institutions, immigrants and the rural poor?

Legal services in Vermont, particularly Vermont Legal Aid, has been working successfully for more than twenty-five years to reach migrant farm workers, the elderly, people with physical or mental disabilities, the rural poor, and people confined in institutions.

7. What steps have been implemented within the legal services delivery system and among client communities to identify and nurture new leaders? Do the existing leaders reflect the diversity within the state and within client communities that your delivery system serves? Do your state's equal justice leaders reflect the gender, race, ethnic and economic concerns of important but sometimes overlooked groups within your state? Does the leadership provide opportunities for innovation and experimentation; does it support creative solutions to meet changing needs; are new ideas welcomed; are clients nurtured as leaders? Has the leadership been given sufficient authority and resources to implement needed changes?

After attending the LSC Hershey Client Conference in 2001 Law Line committed to develop new

leaders in the client community. Vermont boasts of Edna Fairbanks-Williams, a leader in the client community locally and nationally. Edna is a member of the Board of Directors of Legal Services Law Line and is President of the Board of Directors of Vermont Legal Aid. She, along with the Executive Directors of Law Line and Vermont Legal Aid, is leading the effort to identify and nurture new leaders in the client community.

8. What do you envision will be your next steps to achieve a client-centered integrated and comprehensive delivery system within your state or territory? How will clients be actively involved in the determination of these next steps?

We have created a client-centered integrated and comprehensive delivery system in Vermont. The next steps are to increase resources so that we can assist more low income Vermonters with legal problems and do a comprehensive evaluation of satisfaction and outcomes in order to provide better information to guide us on priorities decision and the best way to distribute scarce resources.

9. What has been the greatest obstacle to achieving a statewide, integrated, client-centered delivery system and how was that obstacle overcome or, alternatively, how do you plan to overcome that obstacle?

The greatest obstacle was and is integrating the work of advocates in different legal services programs. This obstacle is being overcome by a variety of strategies including joint training, joint meetings, state wide task forces, overlapping board memberships, and coordinated planning.

10. Has any benefit-to-cost analysis been made in terms of creating a **comprehensive, integrated and client-centered legal services delivery system in your state? If yes, what does your analysis show?**

We have a comprehensive, integrated and client-centered legal services delivery system. No analysis has been made.

11. What resources, technical assistance and support would help you meet your goals?

Continued support for technology including case management systems.

To what extent have intended outcomes of a comprehensive, integrated 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?

1. In terms of the issues impacting upon low-income persons within Vermont, what strategies have you designed to address these issues and how do you plan to measure your future success in addressing your objectives?

Services for migrant farm workers have improved in the last four years by coordinating our outreach efforts with other migrant programs in Maine, Massachusetts and New York.

The Committee on Equal Access to Legal Services is developing action plans in three areas: legal services, pro se assistance, and pro bono services. Three sub-committees are currently developing reports in these areas. The legal services sub-committee is looking at alternative methods of funding and providing legal services including pre-paid legal services, judicare and fees for service. The pro se sub committee is developing a comprehensive plan for pro se assistance that integrates the efforts of the courts and legal services programs. Their preliminary report is attached.

2. Has the legal services delivery system expanded access and services through coordination with providers throughout the state? Can this be quantified?

The legal services delivery system has expanded access and services by developing expertise in pro se assistance that did not exist before Law Line. In addition, technology, particularly telephones and computers, have enabled us to do more cases with fewer advocates. It is difficult to quantify these changes because they parallel changes in resources including shrinking LSC resources and the development of grant specific resources such as VAWA grants that do not compensate for the loss of money for general legal services. However, we are handling approximately the same number of cases we were handling seven years ago with fewer financial resources. Furthermore, we are dealing with a larger variety of legal problems than we were before restructuring.

3. Has the quality of services provided by the legal services delivery system improved. How?

This is a difficult question that may be too general to answer. I think it is inarguable that the quality of pro se assistance has improved largely as a result of five years of experience focusing on this area, experimenting with different strategies, observing results, and making appropriate adjustments. Other legal services areas continually work toward greater sharing of best practices and coordination of efforts.

4. Since 1998, has there been improvement in the relative equity of client access throughout the state for all low income clients regardless of who they are, where in the state they reside, what languages they speak, their race/gender/ national origin, or the existence of other access barriers? How is this equity achieved?

As mentioned above, greater use of telephones, email, fax machines and the internet has increased the availability of legal services in rural areas. In addition, programs like the Health Care Ombudsman and the Nursing Home Ombudsman increase services to particular client groups.

5. Since 1998, has there been improvement in the relative equity in terms of the availability of the full range of civil equal justice delivery capacities throughout the state? What mechanisms have been developed to ensure such relative equity is achieved and maintained? Since 1998, has there been improvement in the relative equity in the development and distribution of civil equal justice resources throughout the state? Are there areas of the state that suffer from a disproportionate lack of resources (funding as well as in-kind/pro bono)? If so, is there a strategy to overcome such inequities?

There has been little change in the relative equity in terms of the availability of the full range of civil equal justice delivery since 1998. There are no areas of Vermont that suffer from a disproportionate lack of resources.

6. Does this legal services delivery system operate efficiently? Are there areas of duplication?

The legal services delivery system operates efficiently. There are occasional individual cases of duplication between Law Line and Vermont Legal Aid but these are usually quickly identified and managed.

7. Has the system expanded the way it involves private lawyers in the delivery of essential services to low-income persons? Does the system effectively and efficiently use the private bar to deliver essential services to low income people?

The system has worked to expand the involvement of the Vermont Bar Association in the delivery of pro bono services to low income Vermonters. A Pro Bono Committee, within the Vermont Bar Association, is an active partner in this effort. Recently the President of the Vermont Bar Association, a member of the Pro Bono Committee, proposed an unbundling rule to the Civil Rules Committee of the Vermont Supreme Court. This rule change would allow discrete task representation and would be useful in efforts to increase the availability of private lawyers to provide pro bono services.

Are the best organizational and human resource management configurations and approaches being used?

1. For calendar year 2001, what is the current configuration of programs (LSC and non-LSC) that deliver services to low income clients -- i.e., what are the components (size, areas of responsibility, governance) of the delivery system? What are the funding sources and levels for each of these components of the delivery system?

Together, Vermont Legal Aid and Legal Services Law Line of Vermont serve about 10,000

Vermonters annually.

VERMONT LEGAL AID employs sixty-eight people in seven projects. It provides help across the state with offices in Burlington, Montpelier, Rutland, St. Johnsbury, Springfield and at the state hospital in Waterbury.

Vermont Legal Aid Funding Sources FY 2001

Vermont Agency of Human Services	\$974,796
Vermont Bar Foundation (IOLTA)	\$400,000
Vermont Office of Economic Opportunity	\$15,756
Franklin County STOP Grant	\$64,524
Vermont Domestic Violence Network Violence Against Women Grant	\$55,000
Civil Justice Grant	\$82,000
Champlain Valley Office of Economic Opportunity Housing Discrimination Grant	\$19,475
Vermont Center for Independent Living Housing Discrimination Grant	\$7,947
Victims of Crime Assistance Grant	\$32,043
Invisible Victims of Crime Grant	\$6,000
Developmental Disabilities Council Grant	\$49,710
Vermont Coalition for Disability Rights Technical Assistance Grant	\$61,200
P&A PADD Grant	\$284,000
P&A PAIR Grant	\$61,000
P&A Assistive Technology Grant	\$48,000
Vermont Dept of Education and Training Client Assistance Grant	\$110,000
Health Care Ombudsman BISHCA Grant	\$216,890
Health Care Ombudsman OVHA Grant	\$176,000
PATH Medicare Assistance Project	\$426,679
DAD Nursing Home Ombudsman Grant	\$389,627
AAA Champlain Valley Seniors Grant	\$62,098
AAA Central Vermont Seniors Grant	\$47,885
AAA Northeast Seniors Grant	\$5,750
AAA Southeast Seniors Grant	\$31,200
AAA Southwest Seniors Grant	\$14,535
Coalition of Vermont Elders Grant	\$14,535
TOTAL	\$3,681,920

Vermont Legal Aid is organized into seven projects.

The **Disability Law Project** provides free civil legal services for Vermonters with disabilities and

their families. This includes help for people with problems such as special education, guardianship, victims' rights, benefits and discrimination.

The **Medicare Advocacy Project** helps people eligible for both Medicare and Medicaid in matters concerning their Medicare benefits, such as coverage of home health services.

The **Mental Health Law Project** provides legal representation to Vermonters faced with involuntary commitment to the Vermont State Hospital, to ensure their rights are protected and to give them a voice in the proceedings that will determine their future.

The **Office of the Health Care Ombudsman** helps Vermonters, regardless of their income or type of health insurance, with health care concerns such as access to health care, denial of care, billing problems, complaints and appeals, or access to health insurance.

The **Poverty Law Project** provides help to low income Vermonters with problems such as domestic violence, employment, consumer, housing, benefits and discrimination.

The **Senior Citizens Law Project** helps older people with legal problems such as health care eligibility and coverage, individual rights including guardianship, financial exploitation, housing, benefits and discrimination.

The **Vermont Long-Term Care Ombudsman Project** visits long term care facilities around the state and advocates for residents and their families.

LEGAL SERVICES LAW LINE OF VERMONT provides free consultation, advice, and community education for low income Vermonters with legal problems. Law Line employs nine people and provides its services over the telephone from its office in Burlington.

Legal Services Law Line of Vermont Funding Sources FY 2001

LSC Basic Field Grant	\$463,791
LSC Technology Assistance Grant	\$2,375
LSC Subgrant - Pine Tree Legal Assistance Migrant Grant	\$5,500
Vermont Bar Foundation Community Education Grant	\$2,150
Donations	\$1,525
Interest Income	\$2,137
TOTAL	\$477,478

2. Since October 1998, what other configurations and/or approaches have been seriously explored? Were any adopted? Were any rejected? Are any changes contemplated in the coming year?

No other configurations or approaches have been explored since 1998.

3. Is there any identifiable duplication in capacities or services in the state? How many duplicative systems -- accounting systems, human resources management systems, case management systems, etc. -- currently exist? Does the service delivery system now in use minimize or eliminate duplications that existed prior to October 1, 1998?

There is some duplication of systems between Law Line and Vermont Legal Aid including auditing, telephone services, computer services, payroll services, management services, technology assistance and fiscal services. Since October 1, 1998 we have developed ways to share resources and minimize duplication in technology assistance and fiscal services.

4. Since October 1998, what innovative service delivery systems/mechanisms/initiatives been adopted in the state? Have any been explored and then rejected?

We recently developed an initiative to do outreach and provide advice and brief services at Superior Court when they hear Motions to Pay Rent Into Court in eviction cases. We are continuing to experiment with and evaluate this effort and are considering broadening the services provided.