

PLANNING FOR ENHANCED
OUTCOMES - 1998

Strengthening Civil Legal Services in New York

*1998 FINAL REPORT
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**The 1998 Planning Process Steering Committee of
The Grantees of the IOLA Fund of the State of New York**

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Planning for Enhanced Outcomes

Strengthening Civil Legal Services in New York

1998 Final Report

Release of This Report and Status of the Planning Process

This is the third and last paper released by the 1998 Planning Process Steering Committee of the Grantees of the IOLA Fund of the State of New York. “Planning for Enhanced Outcomes, 1998” has been a nearly year-long effort to improve delivery of civil legal services for low-income people in New York by fostering increased collaboration among legal assistance providers. The process has been sponsored by the IOLA Fund on behalf of all of its grantees.

The first paper published by the Committee, *Preliminary Document, July 1998*, presented major policy issues affecting the delivery of legal assistance for review and comment. The second, *Proposed Recommendations and Plans, October 1998*, presented the Committee’s proposed recommendations based upon the input they had received. The Committee again sought comments regarding the proposed recommendations and they were forthcoming, most notably at an all-day meeting of legal assistance providers held during the New York State Bar Association’s (NYSBA) Legal Assistance Partnership Conference on October 26, 1998.

The release of this third paper presents the Committee’s final recommendations – and reports on plans underway by providers in New York to better coordinate their delivery of services, in many instances as an outgrowth of this year’s planning process. The Committee’s formal work for the year has concluded. The planning process, however, will continue in multiple forms at the regional and statewide levels. Plans to do so, as they exist at the time of this writing, are detailed in this paper. Additional plans are in formation.

Thus, for example, while different sections of the paper call for various statewide and regional activities to implement the Committee’s recommendations, the Committee believes that closer coordination of such conferences, meetings and new bodies than has been yet addressed may be possible, thus minimizing demands upon the time and energy of participants. The Committee will address this concern as part of the follow-up to this process.

Finally, as is clear from the foregoing, the planning process started this year will continue. The Committee hopes and expects that planning will become a permanent feature of civil legal assistance delivery in New York. The Committee wishes to thank those who offered their comments, thoughts and advice. Without them this process would not have worked.

Priorities

The Committee, and many commentators, believe that it is important for the success of the planning process to prioritize the recommendations that have resulted from the Committee’s work. Indicating such priorities, however, is only meant to focus future efforts on matters most in need of improvement and does not indicate that one area is of greater or lesser substantive value than others.

The Committee believes, as do virtually all those who have provided their input to this planning process, that the development of greater financial resources for the delivery of legal assistance is the highest priority for legal services providers in New York. Next in order of priority are: Intake, Advice and Referral; Technology; Coordination of Legal Work, Training, Information and Expert Assistance; Access to the Courts, Self-help and Preventive Education; Private Attorney Involvement (PAI) and System Configuration. Such priority is indicated by the sequencing of topics in this paper and the sequencing of points within each topic.

Statement of Principles

The first paper of this planning process, *Preliminary Document, July 1998*, established a frame of reference for the process by articulating values that the Steering Committee believes are widely shared by legal services staff and their clients in New York and across the country. That statement was written by the Project for the Future of Legal Services, a joint venture of the National Legal Aid and Defender Association and the Center for Law and Social Policy.

Many commentators who addressed the Steering Committee believe, and the Steering Committee agrees, that a statement of core values in this final paper is essential to define civil legal services and the context in which this planning process operates. Therefore, set forth below is a summary of the basic principles that appeared in the first paper in the planning process; for the discussion and elaboration that accompany these principles, see that paper or contact the Project for the Future of Legal Services:

The fundamental purpose of a state civil legal assistance system is to enable low-income persons to address their unmet needs effectively. To achieve this fundamental purpose, the system must . . . educate and inform low-income persons of their legal rights and responsibilities; . . . inform low-income persons about the available options and services to solve their legal problems, protect their legal rights and promote their legal interests (and) . . . ensure that all low-income persons have meaningful access to a full range of high quality legal assistance when they have chosen options that require legal advice and assistance.

Project for the Future of Legal Services

A. Resource Development

What statewide financial resources are available for legal services to low-income persons within the state? How can these resources be preserved and expanded?

Current Activities and Analysis

During the course of the 1980s and 1990s, legal services programs and staff unions across the state have worked cooperatively to identify and secure new revenue sources to meet client needs. As a result, New York programs have a diverse funding base, including federal, state, local, and private funds. A recent IOLA report,¹ for example, found that in 1996 civil legal services programs in New York received 19% (\$17.4 million) of their funding from the federal Legal Services Corporation (LSC), 19% (17.4 million) from city and county funding, 18% (\$16.3 million) from state sources, 12% (\$11.1 million) from IOLA, and the remaining 32% from a mixture of sources, including foundations, attorneys' fees, federal sources other than LSC and miscellaneous sources such as contributions from the private bar. With this varied combination of resources, there are legal services programs that can provide a full range of direct services in every region of the state.

The diverse funding base in New York results from significant fundraising efforts by programs across the state. The fact that programs now receive local government funding in an amount equivalent to the level of LSC funding for the state is in large part attributable to the strong local identities and relationships which programs have developed. Cooperation among programs is another key ingredient. Local providers in the Central New York region, for example, have jointly applied for funding in appropriate cases and pursued funding separately in their own counties. Likewise, in New York City, the Legal Aid Society (LAS) and Legal Services for New York City (LSNY) have successfully submitted joint funding requests to government, including obtaining a Disability Advocacy Project grant from New York State.

The LAS raises nearly \$8 million in private funding from law firms and foundations. Similar private fundraising efforts are carried out by other legal services programs in New York City and in other parts of the state, including cooperative initiatives by programs in the Rochester area. However, notwithstanding effective private fundraising efforts by New York programs, the availability of private funding is far more limited in areas outside of New York City which do not have the concentration of large national law firms and foundations found in the city.

Despite significant cooperative efforts by the legal services community to secure an adequate funding base, the overriding limitation on the delivery of legal assistance for poor New Yorkers continues to be the lack of sufficient financial resources. Since the beginning of this decade, the largest sources of funding for civil legal services for poor persons in New York remain LSC and IOLA. Both have suffered serious declines in recent years, although for different reasons. LSC reduced its funding because Congress reduced its appropriation by almost one-third; IOLA funds decreased because of a decline in interest rates. In FY 1998, those sources are expected to generate nearly \$40 million less than they did in 1992 on an inflation-adjusted basis.² There are no signs that these reductions will soon be reversed to any significant degree.

Because of these declines in funding, more poor New Yorkers are denied access to the protection of law. Society pays a price, too. Timely legal assistance can reduce the cost of state social services. To cite just a few examples:

- Every dollar spent on providing counsel to poor clients in eviction proceedings saves \$4 in shelter costs.³
- By stabilizing families in distress, lawyers help them to stay together and avoid expensive foster care.
- Legal assistance reduces state public assistance costs by successfully challenging denials of federal disability assistance.

The New York legal services community has attempted to address these funding shortfalls through a statewide coalition effort to develop new funding from the State of New York. The statewide funding coalition has involved program managers, staff unions, and bar leaders. In recent years, for example, \$5.8 million in annual state funding has been obtained to provide legal assistance to secure federal disability benefits for disabled adults and children, thereby saving state and local public assistance expenditures. Likewise, some \$2 million in annual state funding for homelessness prevention services, including legal services, has been appropriated, which enables state and local government to avert emergency shelter costs.

In addition, beginning in 1993, annual appropriations of general state funding have been obtained for 31 programs to provide civil legal services in literally every community of the state. These appropriations grew from \$3 million in 1993 to \$5.8 million in the state fiscal year that ended on March 31, 1998. Without an ongoing statewide collaborative effort, these general civil legal services funds could not have been obtained. Unfortunately, in 1998 a \$6.8 million appropriation for 1998-1999 was vetoed in April along with other, unrelated, funding initiatives and was not restored when the legislative session ended in June because of an impasse in overall budget restorations.

In May, however, the Legal Services Project, a special committee of bar and business leaders appointed by Chief Judge Judith Kaye of the New York Court of Appeals, recommended that a \$40 million annual funding appropriation for civil legal services be allocated to the IOLA fund.⁴ The revenue source for this proposed annual appropriation would be based upon the State of New York's Abandoned Property Fund. Establishment of this new, ongoing revenue source for legal services would require legislation and is expected to be addressed in the 1999 legislative session.

Agenda for the Future

Increasing the financial resources for legal assistance requires a variety of approaches. The major plans and recommendations are as follows:

1. Implementation of the funding proposal of the Chief Judge's committee is an overriding priority of New York's legal services community. In order to achieve this, legal services programs will draw upon their great strength — a statewide network of programs with strong ties to local communities, including local elected officials, local bar leaders, and other community leaders. Thus, in 1999, programs will continue and a coalition effort to secure this new and stable source of ongoing funding.

2. Programs will continue and enhance current collaborative local government and private fundraising initiatives and seek statewide federal funding when possible.
3. Programs will enhance public awareness of and support for civil legal services through collaborative public relations initiatives between programs and with staff unions, business leaders, the private bar, and government.
4. Programs that lead the efforts described above will seek and facilitate greater involvement in these efforts by all programs and by the supporters of publicly-funded legal assistance to poor persons.
5. The IOLA Fund will consider creating a campaign to build an endowment based upon appropriately-sized, one-time contributions from private attorneys.
6. Interested programs will form a statewide committee to seek funding for community economic development and similar activities. This committee will work with IOLA to identify banks and other possible funding sources and solicit funds for this work on a pilot basis. (In addition, the committee will be a vehicle for sharing information and expertise in this area of practice.)

B. Intake, Advice and Referral

*How are intake and delivery of advice and referral services structured within the state?
What steps can be taken to ensure a delivery network that maximizes client access, efficient delivery and high quality legal assistance?*

Current Activities and Analysis

Since 1995, many programs within New York have revised their intake procedures. Across the state, local programs use a continuum of intake methods in order to maximize client access. Most programs use a combination of telephone screening, neighborhood office appointments and community outreach to identify new client cases.

There has been no formal cataloging of the various intake procedures utilized in the state until this planning process was undertaken. Even now, the consensus is that there is a need for more intensive detailing of how intake is accomplished throughout the state. This issue will be dealt with later in this report along with other recommendations for future action.

For the purposes of this report however, the following are examples of efforts that have been in effect, initiated or expanded since 1995.

In 1996, Nassau/Suffolk Law Services restructured its intake system with the assistance of a two-year grant from the Rauch Foundation (a Long Island foundation that supports initiatives to assist children and families). The centerpiece of the restructuring is the Legal Education and Advocacy Project (LEAP) Hotline that began in 1996. It is centralized and located in the Law Services' Hempstead office in Nassau County. The hotline is open from 9:30 p.m. to 3:00 p.m. and currently has the capacity to take calls including emergencies. The philosophy behind the hotline is that many of the calls that come into Law Services can be handled on the telephone with advice, brief service or a referral. For those cases that are too complicated to discern over the telephone, a face-to-face appointment is given with an attorney. The hotline provides an

intensive, sophisticated service. It assesses a caller's legal problem, reviews all pertinent legal documents by phone, fax or mail, offers expert legal advice, engages in necessary legal research, and provides a follow-up letter confirming the problem and advice given and informational materials on public benefits and housing problems. It also retains the capacity to handle "walk-ins" to serve low-income households that do not have access to telephones. The hotline is currently staffed by a social worker, paralegals and attorneys (on a rotating basis). On hotline days, there is a minimum of three people assigned to cover the calls. During the first year the hotline was open for calls, 2,300 new clients were given advice and counsel, provided with brief service or given a referral to a more appropriate agency.

Neighborhood Legal Services of Buffalo (NLS) conducts intake primarily by telephone, using paralegals who are assigned to substantive law units (Public Benefits, Family, Housing and Disability) and are, therefore, well versed in their field. Callers self-select the substantive area of law in which they seek assistance. The paralegals enter information directly into the client database that conducts all of the necessary conflict checks. NLS conducts intake every day but shuts down after the paralegals have taken a predetermined number of calls. The number of calls accepted is based on NLS' historical experience of the number of clients per day to whom the paralegals can provide meaningful services and accomplish their other job duties. NLS charges the paralegals to solve the client's problem by telephone if possible. Where that is not possible, the paralegals give clients in-person appointments. All clients receive confirmation of the advice given, brief services rendered and/or a referral. NLS sends appointment letters to clients who are brought into the office. NLS also conducts in-person intake at the Erie County Department of Social Services daily, the Housing Court two days a week, the Perry Housing Project once a month, the Seneca Nation reservation twice a month, and five soup kitchens once a week.

The Rochester-based Community Legal Intake and Referral Project (CLIRP), provides consolidated telephone reception, intake, client screening and referral services. Through the collaborative efforts of the Monroe County Legal Assistance Corporation (MCLAC), the Public Interest Law Office of Rochester (PILOR), the Volunteer Legal Services Project (VLSP) and Main West Attorneys at Law, CLIRP has expanded from a part-time telephone intake and referral agency to a full-time operation that handles approximately 10,000 intake calls and over 50,000 calls through its central reception services. CLIRP is staffed by a half-time attorney, two paralegals and two full-time and one half-time intake specialists. CLIRP collects up-to-the-minute information on intake and case acceptance guidelines of each of the Monroe County legal service providers. It uses this information to refer callers to the appropriate legal service provider, or government or human service agency. Thus, Monroe County residents can call just one phone number and receive information on available legal resources and the method of accessing those resources. Callers who are not eligible for assistance from a legal service agency, or who have issues not covered by those providers, are given self-help advice, if appropriate, or are referred to the Monroe County Bar Association's Lawyer Referral Service. CLIRP has a budget of \$155,000 and is funded by IOLA, the Foundation of the Monroe County Bar, the New York State Bar Foundation, and three of the legal service providers -- MCLAC, PILOR, and VLSP.

In New York City, during the past year the two largest providers of civil legal services, LSNY and LAS, have begun meeting with many other providers of civil legal services to explore methods to standardize intake and further meld the priority setting process. This is a complex undertaking that has brought together staff, *pro bono*, specialty and geographically-diverse programs.

LSNY offices have established a number of hotlines and helplines in recent years. MFY Legal Services initiated hotlines in housing, public assistance, Social Security/SSI, family law and immigration law, as well as a Chinese-language hotline and a hotline for mentally disabled clients. Bedford Stuyvesant Community

Legal Services has initiated telephone intake. Queens Legal Services maintains helplines in employment law, consumer law, family law, housing law, SSI and other government benefits. South Brooklyn Legal Services operates hotlines in housing, government benefits, SSI, family and consumer law. Bronx Legal Services maintains a family law hotline. Legal Services for the Elderly maintains the New York Pension Hotline, which offers statewide pension (and other employee benefits) counseling and referral to attorneys, actuaries and others. Brooklyn Legal Services Corporation A and Harlem Legal Services operate housing advice lines. In addition, most LSNY offices have developed off-site intake programs at community organizations, senior citizens centers and the like.

Northern Manhattan Improvement Corporation (NMIC) is a direct legal services provider in New York City's Washington Heights and Inwood neighborhoods in upper Manhattan. The area is among the city's poorest with one of the highest percentages of immigrant and non-English speaking residents. Beginning in 1996, a grant from IOLA enhanced NMIC's ability to provide significant class action and impact litigation services as well as establish a full Public Benefits Unit in collaboration with Fordham University School of Law's clinical program, Lincoln Square Legal Services. The unit has focused on the delivery of public benefits legal services and the expansion of citywide impact cases which federally-funded legal services providers are barred from handling. Law students who participated in the clinic have gone on to develop remote access capabilities and provide World Wide Web space for client-oriented material prepared under the project.

The Medicare Rights Center (MRC) of New York City counsels callers through its telephone hotline; prepares and distributes educational material; advocates on behalf of Medicare beneficiaries and assists and trains beneficiaries and representatives. In 1997, MRC provided telephone assistance to approximately 51,000 callers, distributed more than 300,000 educational materials to individuals and organizations and provided training to more than 3,100 seniors, people with disabilities and their representatives.

The Association of the Bar of the City of New York operates a significant citywide program that provides general legal assistance on a broad range of issues and targeted referrals. Known as SHIELD (The Center for Self-Help, Information, Education and Legal Defense), the Association's program promotes and expedites access to appropriate *pro bono* services for low income clients via a computerized telephone referral system. It empowers citizens with legal information and knowledge through self-help clinics. In 1997, its first eight months of full operation, SHIELD received more than 7,000 calls. It advised 41 percent and referred 20 percent to legal assistance providers, referred 10 percent to the Association's Legal Referral Service and another 10 percent to the Association's matrimonial project. The remainder needed non-legal referral and were sent to the Association's legal education program, "Monday Night Law," or were sent written materials, or did not have a problem of a legal nature. SHIELD has also been maintaining a database of intake procedures for legal services providers throughout New York City. This information is updated periodically. They are currently working in collaboration with LSNY, LAS and Pro Bono Net to develop a joint on-line referral directory for the sole purpose of giving legal and social services providers throughout New York City access to this information.

North County Legal Services operates a regional intake system. It includes toll-free telephone access and client walk-in five days per week, seven hours per day, and outreach twice monthly in four locations.

Westchester/Putnam Legal Services and the Legal Aid Society of Rockland County, working with the Western New York Law Center, (WNYLC) are developing a technology plan for the mid-Hudson region that includes technological improvements to their current systems.

In New York City, LAS has initiated a community outreach program in collaboration with community-based organizations to provide greater access to civil legal services for immigrants. Each month, LAS staff schedule intake appointments at community organizations in immigrant communities in Washington Heights, Sunset Park, Crown Heights, Flushing and Kew Gardens. LAS Homeless Rights Project staff also conducts outreach intake at shelter facilities throughout the city and LAS' Brooklyn Neighborhood Office opened an outreach site for weekly intake in Crown Heights.

In Central New York, a *Quick Reference Table for Free Legal Services* was developed by Hiscock Legal Aid Society (HLAS) and Legal Services of Central New York (LSCNY) through their *Pro Bono* Consortium. It is used by the receptionists at all legal service providers' offices for information and referral and includes information about services available from Syracuse area programs including: HLAS, LSCNY, Assigned Counsel, Syracuse University College of Law clinical programs and the Volunteer Lawyer Project.

Agenda for the Future

The issues involved in intake are varied and complex. Accordingly, the Steering Committee and the provider community have determined that a statewide conference is essential to further discussions and innovation in this area. Thus, in addition to technological steps that can be taken in the near term, as also described below, the principle plan for action is to hold such a meeting in the immediate future.

1. After the release of this report, IOLA grantees will plan and convene a conference devoted to intake. The conference will:
 - Review and catalog current intake procedures;
 - Explore expansion of the use of new technology;
 - Explore the possibility of standardization of reporting mechanisms, including software;
 - Develop an ongoing mechanism to evaluate intake in the future and a plan to continue necessary evolution;
 - Review and expand use of *pro bono* assistance with intake, advice and referral;
 - Review current intake systems that have centralized intake within a specific service area by partnering with human services providers within the community;
 - Consider regional or statewide telephone help lines for discrete subject areas;
 - Explore the difficulty of special populations (elderly or disabled persons, etc.) in accessing legal services intake procedures;
 - Continue contact with the New York State Office of Court Administration and provide input regarding its *pro se* efforts;
 - Explore the New York State and local bar associations' legal information and referral service programs;

- Formalize statewide contact with other national, state and local programs to continuously be aware of the current status of intake procedures.
- 2. In addition to planning the intake conference, greater use will be made of Internet resources. As part of the WNYLC web site, WNYLC will develop a map of all IOLA grantees utilizing a "gatekeeper" for the public and agencies.
- 3. Legal assistance providers in New York City will develop a web page, linked to the WNYLC web site, that provides referral information about legal assistance providers in New York City.
- 4. On the regional level, legal assistance providers will continue to meet to discuss intake policies and practices and to work toward improving coordination and collaboration.
- 5. Coordinate and expand ongoing efforts for clients to contact legal services offices, such as an off-site intake, particularly to address the needs of hard to reach populations.

C. Technology

Is there a state legal services technology plan? How can technological capacities be developed statewide to assure compatibility, promote efficiency, improve quality and expand services to clients?

Current Activities and Analysis

New York programs, especially LSC grantees, are generally more advanced than programs in other states in using technology to serve clients. Most programs have a computer on each advocate's desk, are networked, use interoffice mail and use some sort of computerized case management system.

Many offices have recently made technology purchases and are working within the Windows 95/98 environment. This means that many offices have hardware that is sufficient to run many of the applications that will be useful to them in the near term.

New York has a statewide technology project housed at WNYLC and the Legal Services Support Unit of LSNY. New York has a statewide website designed and maintained specifically for legal services advocates. The web site is visited hundreds of times per week by advocates. New York has a bimonthly technology newsletter prepared by WNYLC and mailed to legal services advocates.

New York has also invested funds in software development. WNYLC has recently developed a case management/intake/timekeeping program called TIME that more and more programs are using. For example, in Western New York, the Niagara County Legal Aid Society, NLS, Southern Tier Legal Services and Legal Assistance of the Finger Lakes use TIME and other programs have the system under active consideration. WNYLC, with the Greater Upstate Law Project, Inc. (GULP) is also issuing a document assembly program for advocates who handle Supplemental Security Income benefits cases. Upon issuing this software, New York hopes to progress to the development of other software programs using common standards.

New York could engage in more local and statewide planning and coordination with a goal to moving toward some common standards. When programs make purchases, they often do so without having a technology

plan in place or an understanding as to how that purchase fits in with what other programs are doing. This can lead to programs making mistakes when they discover that what they purchased does not work with older software applications they were using, or that the purchase was not planned to take advantage of new applications that are just around the corner.

However, New York lacks a dedicated source of funding for technology purchases. Many programs realize that certain technologies would help them provide more high quality legal services to clients. But the current fiscal climate, where programs are preparing plans to lay off staff, creates an intolerable tension. When they ask: “do we buy a computer or preserve staff,” most programs will understandably answer “preserve staff.” This tension is not unique to New York but is experienced by programs across the country, and in the nonprofit world generally.

New York, like states across the country, lacks local expert assistance for programs that have invested in technology. The lack of a local technical support person remains a serious problem for many programs.

Last, many staff do not have access to the Internet. This means that staff are not able to send or receive e-mail outside of the office, participate in listserves in their substantive areas of law, participate in electronic forums that can be used to provide peer-to-peer supervision, use the web site of the WNYLC or avail themselves of the other useful materials on the Internet.

Determining how programs should use technology in their day-to-day practices is complicated and must begin with an analysis, not of the available technology, but rather of how they can better serve clients.

The range of programs providing civil legal services to low income people is great, ranging from programs with only a few employees to programs with hundreds. Over the years, programs have made radically different investments in technology. Some programs are near state-of-the-art while others have eschewed technology and targeted their resources differently. Contrary to the commonly held belief, there is no correlation between program size and investments in technology. Indeed, many smaller LSC grantees are among the most technologically advanced. Regardless of how a program invested in the past, the current funding picture for many programs creates a tension between making capital investments and meeting personnel costs.

The use of technology within the legal services practice falls within three general areas:

- Use of technology to communicate (i.e., e-mail, forums, Internet),
- Use of technology to help in decision analysis (document assembly), and
- Use of technology as an autonomous tool (i.e., artificial intelligence where inputs are entered and the software determines a course of action).

Projecting over the next several years, the use of technology to help in decision analysis and as an autonomous tool will grow significantly but will probably not have a profound impact on the day-to-day practices of most legal services advocates.

But using technology as a communication tool is another matter. The use of e-mail is now commonplace. More than 70 million American adults use the Internet, an increase of 18 million over the last nine months. While low income people do not have wide access to these tools, the people and agencies, with which legal

services programs and low income people regularly interact, do. Indeed, many of the recommendations contained in this plan assume a minimum level of technology within an office and desktop access to the Internet for advocates. Such a minimum level, once achieved, should allow providers statewide, in conjunction with WNYLC to:

- Create statewide substantive law forums on the WNYLC web site where advocates from around the state could provide peer-to-peer supervision,
- Post all training opportunities to the WNYLC web site;
- Post client education materials to the WNYLC web site for statewide distribution and use;
- Create training collaboratives that would accomplish much of their work using an electronic forum.

Underlying the recommendations in this paper is a belief in the benefit of having legal services advocates connected across New York State. The Committee is convinced that such statewide connectivity will redound significantly to the benefit of our clients.

Many programs have limited funds to spend on technology. The Committee, however, is concerned that programs that fail to invest in technology as an effective communication tool could be digging a hole out of which they cannot climb. The use of technology as a communication tool is becoming as ubiquitous and as essential as the telephone. Moreover, as other software applications become cheap and readily available (document assembly for example), these programs will not be poised to take advantage of them.

Agenda for the Future

Because technology is a crucial area for achieving greater efficiency in the delivery of legal services, the Committee has formulated a number of specific plans and recommendations, as follows:

1. IOLA will work with the WNYLC to identify needs and build capacity in smaller programs and support the efforts of larger programs to enhance their technological capacity by coordination of efforts, plans and purchases.
2. In 1999, IOLA will allocate resources for a limited number of small programs to increase access to technology and to provide staff support at WNYLC to help programs increase their technological capacity.
3. As also mentioned in the coordination of training section of this report, WNYLC will create statewide substantive law forums on its web site where advocates can provide peer-to-peer supervision.
4. Legal assistance providers in New York should continue to develop a statewide capacity to use technological tools to enhance the ability to provide quality legal services.
5. Programs should post all training opportunities to the WNYLC web site. WNYLC will ensure that all received are posted.

6. Programs should post client education materials to the WNYLC web site for statewide distribution and use. WNYLC will ensure that all received are posted.
7. Programs should create training collaboratives that would accomplish much of their work, using electronic forum supervision.
8. All advocates and support staff should have a personal computer on their desktops capable of running Windows. This recommendation gives advocates and support staff many useful tools. Not only can they run many software applications from their desks, including for example, word processing and spreadsheets, but they will also have the capability to use e-mail and the Internet. This recommendation provides the infrastructure for many of the recommendations that follow.
9. Offices with more than five staff should consider networking their computers. This recommendation gives offices the capacity to share files easily, communicate easily using internal e-mail, network their printers, and create the infrastructure for interoffice e-mail and access to the Internet. Offices with fewer than ten workstations can set up a peer-to-peer network using Windows 95. Such a network is relatively inexpensive since it does not require a file server or networking software.⁵
10. Offices should consider giving advocates individual access to the Internet and the World Wide Web. Advocates need individual access to the Internet and the World Wide Web for several reasons:
 - They will not be able to send or receive e-mail from their desktop without it. Experience shows that installing e-mail on a central machine that advocates must leave their desk to check regularly, defeats the advantages of e-mail. E-mail is checked less frequently and is frequently “lost.” Effective communication is inhibited not enhanced.
 - Advocates will not be able to participate meaningfully in the forums that will be set up on the WNYLC web site. These forums could be the single most effective means for advocates from across the state to provide and receive peer supervision and share late-breaking information.
 - As more-and-more materials migrate to the World Wide Web, advocates will need access to it. A few examples of materials available on the Web include: New York court slip opinions in word searchable format; United States Supreme Court and post-1992 Circuit Court opinions in word searchable format; United States Code, the Code of Federal Regulations and the Federal Register in word searchable format; New York statutes and some regulations; source materials posted by such agencies as the US Departments of HHS and HUD and relevant New York State agencies; and materials posted by substantive law experts from the Welfare Law Center, the National Health Law Project and the National Senior Citizens Law Center.
11. Programs often make technology purchases but neglect to train their staffs well in how to use them. Sending staff to outside training is expensive. Thus, offices that have already invested in technology should consider forming local collaboratives, or using the vehicle of the regional collaboratives recommended elsewhere in this report, to assess and provide training for their staffs and arrange for support for the technology in which they have invested. Programs may have people on staff who can provide the training to each other or can share the cost of bringing in an outside person to provide the training. In either case, the costs of the training will be greatly reduced.

12. For programs that have already invested in technology, a common complaint is the lack of local support when they experience problems. Local support cannot be solved centrally yet very few programs can afford a staff person devoted to technology. Programs may, however, be able to afford sharing a person. For example, three programs in Connecticut share a full-time person responsible for technology and the arrangement has worked well. Programs located in the same geographic area should consider a similar arrangement or negotiate with an outside firm to provide such services at a reduced rate.
13. Programs should pursue a dedicated funding source that would match dollar-for-dollar technology purchases that are consistent with the recommendations herein. The tension between capital investments and personnel costs has reached a nearly intolerable level for most offices. We recommend, therefore, that programs pursue a dedicated source of funding for technology purchases. We recommend a program that would match a local program's contribution, thus assuring that the local program considered the investment a worthwhile one. Purchases would qualify if they moved programs toward meeting the other recommendations contained in this paper including, for example, access to the Internet and the Web.
14. Programs should develop, and update biennially, a statewide technology plan. Creating a statewide plan has several advantages. First, it would help programs set priorities. As stated earlier in this section, for example, technological applications, including artificial intelligence, will soon help advocates in their decision making processes. Second, a statewide plan will give local programs guidance. The plan could recommend, for example, proven and inexpensive software applications. The plan could recommend minimum hardware specifications including guidelines for determining reasonable costs. Third, a statewide plan would begin to move programs to a common set of standards so that they could more easily exchange documents and data.
15. Programs should also consider developing local technology plans. Too often technology decisions are made in a void. A program makes a purchase only to discover that what they purchased does not work with older software applications or was not forward thinking enough to take advantage of new applications that are just around the corner. Programs may not be able to communicate electronically because they have purchased incompatible software. Creating and updating a local plan will help programs avoid these pitfalls.
16. In addition to using the emerging regional collaboratives for technology training and support as recommended earlier, programs should consider convening annual upstate and downstate computer conferences to share information and obtain peer support.
17. Programs should determine whether their computer system is compliant with "Year 2000" standards and is protected from a possible major failure. WNYLC will convene a conference call among IOLA grantees to outline the parameters of the potential problem. During the call, WNYLC will direct participants to free software that will test and, if possible, update their computers. WNYLC will discuss how this problem may affect telephone systems. WNYLC will distribute a "Year 2000 Survival Pack," a CD ROM with patches and updates for Windows95 machines with instructions for installing the program. They will also provide support for people who call with questions about installing the software.

D. Coordination of Legal Work, Training, Information and Expert Assistance

Do program staff and pro bono attorneys throughout the state receive the training and have access to information and expert assistance necessary for the delivery of high quality legal services? How can statewide capacities be developed and strengthened to meet these needs?

Current Activities and Analysis

New York has a wide variety of institutions and resources to coordinate, support and enhance the delivery of legal services.

Task Forces

New York's strong, regionally-based substantive law task forces offer an effective way for advocates to share developments and emerging trends in substantive areas of law and to share strategies to address the problems of low-income clients. The task forces are convened by experts in the field and have active participation by advocates at all levels of experience, including those from large and small programs, urban and rural areas. Areas in which task forces exist include: education, housing, family, food stamps, HIV, Social Security/SSI and welfare.

Training

Statewide and regional programs provide training in substantive law, skills and technology. These offices – which include GULP, the LAS (of New York City), the LSNY Legal Support Unit, Public Interest Law Office of Rochester (PILOR), Public Utility Law Project (PULP), WNYLC, the Rural Law Center, Farmworker Legal Services of New York and the Farmworker Law Project of the Legal Aid Society of Mid-New York – organize scores of events that provide comprehensive training for legal services advocates and *pro bono* attorneys on a broad range of issues. Many of these programs are, or are seeking to become, New York State-certified providers of Continuing Legal Education (CLE).

Updates

Legal services programs can obtain immediate access to new developments in areas of law through the WNYLC web site, which is updated on a daily basis. In addition, a large amount of printed material is regularly sent to advocates regionally and throughout the state, such as GULP's *Legal Services Journal*, the LSNY Legal Support Unit's monthly update mailings in a number of substantive areas, the New York Legal Assistance Group's newsletter and the Welfare Law Center's *Welfare News*. This update material is especially useful in the area of welfare reform, where so much of state laws, regulations and policies are changing.

Resource Materials

Advocates in New York have access to comprehensive written and electronic resource materials in substantive areas of law affecting low-income clients, including: *Public Benefits in New York* (Barry Strom, Cornell Law School), *Welfare Reform Training Materials* (GULP), *Residential Landlord-Tenant Law in New York* (Andy Scherer), *Disability Advocacy Manual* and *DAP Conference Materials* (GULP). Document assembly systems have been developed for use in landlord-tenant cases, Social Security Disability and SSI cases, matrimonial and bankruptcy cases.

Collaborative Efforts

Creative partnerships among legal services providers, bar associations and *pro bono* programs, law schools, training institutes and nonlegal services providers have expanded training opportunities, and access to experts and information, for advocates. The most notable statewide example is the previously-mentioned Legal Assistance Partnership Conference, a collaborative effort of legal assistance providers and NYSBA that in October 1998 presented more than seventy training and task force sessions for advocates from around the state. Through new funding initiatives, such as the S.T.O.P. Violence Against Women Act, legal assistance programs are collaborating to provide training to advocates working with victims of domestic violence. GULP, the Legal Aid Society of Rochester and the Family Violence Clinic at the University at Buffalo Law School, for example, provide training and support on domestic violence issues to programs throughout the western part of the state.

This patchwork of resources does a good job of assuring that advocates throughout the state have access to the information, training and expertise they need to provide high quality legal assistance. However, in order to optimize our ability to provide quality legal assistance that addresses the full range of legal needs of low-income households in New York, we can, and should, as a community, do an even better job of coordinating existing resources. There is a need for more coordination among providers to ensure that legal services staff and *pro bono* attorneys are made aware of and receive relevant training in skills and substantive areas (including ethics, technology, and management issues) that also meets mandatory CLE requirements. More sparsely populated areas of the state, in particular, need resources to address the time and expense involved in traveling to training events. There is also a need for better sharing of information, for coordination of advocacy strategies, and for a system of referral between organizations engaged in providing direct individual services and those providing administrative/legislative advocacy and impact litigation to ensure that low-income clients have access to a full range of legal services. There are also areas in which we need to better coordinate resources and share expertise, including community economic development and ethics.

Agenda for the Future

This area requires the improved coordination of existing activities, as well as the development of new ones. Certain steps were decided upon in the planning process and are stated below, but more remains to be done. Plans and recommendations include:

1. As discussed in the technology section of this report, programs should post training opportunities on the WNYLC web site and create a conference site on the web for a dialogue about training needs. WNYLC will create a separate page on the web site for posting training opportunities and open the conference shortly. Although the site will be developed by the WNYLC, the content of the site will be maintained by a consortium of training entities, as discussed below.
2. Programs should establish regional training collaboratives that are consistent with, or a component of, the existing or newly emerging regional collaboratives mentioned in the system configuration section of this report. Such training collaboratives should include representatives from each of the IOLA programs in the region and should:
 - Identify regional training needs (including substantive law, legal skills, ethics, management issues, leadership development, technology);
 - Identify staff in local programs with expertise to conduct training;
 - Ensure that, to the extent possible, training satisfies CLE requirements;
 - Ensure that the training is delivered to staff regionally;
 - Ensure that training information is posted to the WNYLC web site.
3. Representatives from each organization that is engaged in legislative or administrative advocacy and impact litigation, including, but not be limited to: GULP, the LAS, the LSNY Legal Support Unit, PILOR, PULP, WNYLC, the Rural Law Center and the Welfare Law Center should form a consortium among themselves to coordinate delivery of training, expert assistance and other support services. As a first step, such consortium should convene a statewide meeting to share information, coordinate strategy (both to improve the chances for successful outcomes, as well as to avoid duplication of effort) and continue to share policies and procedures for making referrals. In addition, to facilitate communication and coordination with direct service providers, these consortium members should participate fully in existing or emerging regional collaborative structures.
4. As discussed in the technology section of this report, WNYLC, if there is adequate support from programs, will create substantive law forums or conference sites through the WNYLC Web Site, with experts taking responsibility to monitor the forums. Advocates should be able to post questions to the conference sites and receive answers or input from the experts monitoring the sites or from other advocates. These conference sites would provide advocates with an opportunity to obtain expert assistance in a very efficient, cost-effective manner and significantly increase communication and sharing of information and strategies. At least one such conference site should be established by December 31, 1998 with one or more experts from support centers or other legal assistance providers identified as soon as possible to monitor the forum.

5. PULP will continue to coordinate the involvement of legal services programs in expanding their capacity to use video conferencing. Many programs are part of a pair of large collaborative grant applications that are seeking resources for video conferencing from Bell Atlantic and the federal government. Efforts will continue to focus on applications for assistance in expanding the infrastructure necessary to support this technology, as well as assisting local programs in identifying ways to collaborate with local entities, such as community colleges and Board of Cooperative Educational Services programs, to access video conferencing resources already in place.
6. At the Legal Assistance Partnership Conference in October 1998, a committee was established to coordinate implementation of the recommendations contained in this section. This committee will convene a conference call by December 31, 1998 to establish a work plan and subcommittees to work on each of the recommendations.
7. To address ethical concerns regarding the delivery of legal assistance, Fordham University School of Law will hold a conference cosponsored by the Louis Stein Center for Law and Ethics at Fordham, the Legal Services Corporation, the National Legal Aid and Defender Association, and other legal services organizations on December 4-6, 1998. Following the conference, Professor Bruce A. Green, Director of the Stein Center, has agreed to be available to consult with legal assistance providers around the state regarding professional standards and, when appropriate, to circulate written material to providers regarding common issues. In addition, the Stein Center, New York Lawyers for the Public Interest and LSNY will work to develop ethical guidelines on issues arising out of community lawyering that will be presented at a working symposium for the legal services community in the Spring of 1999.

E. Access to the Courts, Self-help and Preventive Education

What are the major barriers low-income persons face in gaining access to justice in the state? What efforts can be taken on a statewide basis to expand client access to the courts, provide preventive legal education and advice, and enhance self-help opportunities for low-income people?

Current Activities and Analysis

Alan Houseman, a national expert on legal services, has commented that support for *pro se* activities is limited, but increasing:

Recently, there has been growing interest in creating initiatives on *pro se* assistance both within legal services programs and as part of statewide access to justice planning initiatives. While there are only a few operating programs at this time, many more are being contemplated and a number of experimental initiatives are beginning.⁶

As to other developments such as self-help kiosks and *pro se* oriented web sites, Houseman observed that local experimentation is found in several communities. He advises greater attention to these new forms of self-help:

The civil legal assistance system needs to explore and experiment with these approaches in order to help the growing number of *pro se* litigants navigate the court system more effectively and to provide concrete services to more clients in an efficient manner. While *pro se* assistance efforts are not substitutes for direct representation, they are a critical element of a civil legal assistance system and must be developed, evaluated, improved and funded.⁷

The Steering Committee discussed the many aspects of access issues as they are being debated across the country today and agreed that the primary responsibility of legal assistance programs is to provide high quality, direct legal services to low-income persons.

The Committee agreed that no self-help option should be viewed as a substitute for full representation provided by professional legal services attorneys. The Committee supports efforts to disseminate client education materials which inform clients of their rights. However, the Committee is concerned about the dissemination of materials which purport to tell clients how to represent themselves when experience shows that *pro se* litigants fare more poorly than represented litigants. Partial or misleading information could be provided to clients through such means as legal information kiosks in courthouses. Such efforts may simply create the illusion of providing legal help to people who cannot effectively represent themselves.

Pro se assistance can be a helpful tool for some low-income clients in a limited number of simple legal disputes. However, it is not an effective means for most clients to assert their rights and interests in contested court proceedings. This is due, in part, because New York law and the New York court system are not set up to accommodate *pro se* representation, and because of language, education, physical and mental disabilities and other barriers faced by clients. Further, it must be recognized that our clients, unlike those with greater financial resources, will not have a choice between *pro se* and actual legal representation and will most often be confronted by opponents who are represented by attorneys, putting them at even greater disadvantage.

The Committee also briefly addressed the issue of Alternative Dispute Resolution (ADR) and noted that while ADR does not provide clients with greater access to courts, it is an increasingly available means of obtaining greater access to dispute resolution services and is therefore a viable adjunct to traditional forums. The Committee, however, is concerned that poor clients could be disadvantaged in such a setting if their opponent has counsel and they do not, just as they would be similarly disadvantaged in court. For that reason, ADR raises many of the same concerns about adequate representation that have been previously mentioned. Nevertheless, under appropriate circumstances, ADR can be a valuable means of bringing conflict resolution services to poor clients.

The strengths of the current activities, involving access to the courts, self-help and preventive education, were determined by the Committee to be as follows:

- There is a recognition among legal service providers in New York that there is a distinction between client education and community legal education and both are being done.
- Resources are being used to work with and train the employees of other community organizations to serve as advocates within the social services system, e.g., to assist with applications for housing,

welfare and other forms of assistance. Community advocates are being trained by legal service providers in Long Island, Queens County, Rochester and Utica, as well as by the Brookdale Center on Aging, the New York City LAS, the New York Legal Assistance Group and the Northern Manhattan Improvement Corporation.

- Brooklyn Legal Services Corporation A has a weekly *pro se* clinic on welfare issues held at a local community organization. Harlem Legal Services has an education and outreach collaboration with the Victim Services Agency to provide information on domestic violence and obtain orders of protection in Family Court. Harlem Legal Services regularly presents workshops on health care proxies and wills at senior citizen centers. Bronx Legal Services, Queens Legal Services and MFY Legal Services provide assistance in English and Spanish to people on how to represent themselves at administrative hearings to challenge the denial of SSI benefits. Bronx Legal Services publishes and distributes handbooks in English and Spanish for clients addressing family law, government benefits, and housing law matters. Brooklyn Legal Services Corporation B holds an annual series of housing workshops directed at housing advocates and tenants and government benefits workshops at settlement houses, schools, colleges and social service organizations. Bedford Stuyvesant Community Legal Services works with 1,000 students a year in local public schools. Queens Legal Services has the People's Law School, which provides community legal education to advocates and clients in Queens, including trainings on special education law to parents at public schools and on parent involvement regulations under the federal Title I program to parent associations. Queens Legal Services also provides a divorce clinic for battered women at a major law firm, a *pro se* divorce clinic using CUNY Law School students and volunteer attorneys and a weekly housing clinic in Queens Housing Court. The LSNY Legal Support Unit is working with the Office of Court Administration, New York Lawyers for the Public Interest and the Association of the Bar of the City of New York to produce a video for unrepresented tenants in Housing Court that explains tenants' rights and procedures for obtaining court orders for repair of hazardous housing conditions.
- The WNYLC web site serves as a client and community legal education resource.
- *Pro se* clinics operate under the auspices of legal service providers in numerous parts of the state not specifically mentioned previously, including Long Island, Rochester, the Southern Tier and Utica.
- Most legal service providers throughout the state publish newsletters which contain legal education information and materials.

Agenda for the Future

Programs should create a statewide legal education committee to explore and plan a clearinghouse of community legal education materials to be posted on the WNYLC web site. These materials would be accessible to clients and other service providers primarily through community organizations and agencies. Regional collaboratives, such as those discussed in the configuration section of this report, should organize the materials to insure that they are relevant to local issues and practice. Responsibilities of the statewide committee or regional collaboratives, as appropriate, would be to:

3. Coordinate the collection and organization of present community legal education materials and post those on a web site;
4. Identify areas of need for new community legal education materials;

5. Identify program staff with expertise to develop new materials;
6. Ensure that new materials are developed and shared regionally and are posted on the web site;
7. Identify and pursue resources to enhance the delivery of community legal education services to clients;
8. Serve as liaison to other regional and statewide collaboratives.
9. Establish a liaison with the New York Office of Court Administration and state and local bar associations to ensure that the needs and interests of indigent clients are taken into account as those bodies develop new *pro se* resources.

F. Private Attorney Involvement (PAI)

What is the status of private attorney involvement (PAI) in the state? What statewide efforts can be undertaken to increase the involvement of private attorneys in the delivery of legal services?

Current Activities and Analysis

Pro bono has a long and rich history in New York. Several *pro bono* programs have existed for 15 years or more. Currently, New York's private attorneys provide an impressive amount of *pro bono* assistance to poor persons in civil matters. A report⁸ published by a special NYSBA committee found that:

New York lawyers have compiled an exemplary record of effort to improve access to justice for the state's indigent. The voluntary efforts of the state, local and other bar associations are making a difference. Working together with legal services and *pro bono* programs, judges, law schools and others, they have demonstrated a strong commitment to addressing these unmet needs and to facilitating societal action necessary to eliminate those needs.

In fact, a survey that was conducted by a special panel appointed by New York's Chief Judge, the *Pro Bono* Review Committee, showed that 46.9% of attorneys whose principal place of business was in the state reported performing some qualifying *pro bono* service in 1992.⁹

There are more than seventy-five *pro bono* programs in New York. These programs are local in nature and in focus. Outside of New York City, the geographic coverage of the *pro bono* programs is generally the same as that of the local LSC recipient. The NYSBA publishes a booklet: *Pro Bono Opportunities: A Guide for Lawyers Outside of New York City*.

- Upstate, the Rural Law Center is spearheading a coordinated effort with several *pro bono* programs in rural communities. The Center's project, Seniors and Youth Access to Justice, stimulates rural *pro bono* by providing legal education seminars for attorneys in rural regions in exchange for their agreement to accept *pro bono* assignments. The project coordinates the efforts of local non profit and human services agencies in planning the seminars. These organizations then become sources of case referrals after the training is concluded. The Center also conducts community education for clients and service providers that yield additional *pro bono* cases. The project relies on trainers from

the NYSBA's Elder Law Section and on collaboration with county bar associations and agencies in the region. It receives financial support from the New York State Bar Foundation and other sources.

- Volunteer Legal Services Project of Monroe County serves as a clearinghouse of *pro bono* resources in Rochester. VLSP works in both formal and informal collaborations with numerous human services programs to make *pro bono* counsel available to clients of those programs and to ensure that the clients' needs are addressed holistically. VLSP matches approximately 500 clients with volunteer attorneys for full representation each year. In addition, volunteer attorneys help more than 600 additional clients annually in the program's Debt Collection Advice Clinic, Family Court Assistance Clinic and *pro se* divorce clinic.
- The Erie County Bar Association Volunteer Lawyers Project's "Attorney of the Morning" program in Buffalo City Court utilizes trained volunteers to represent over 500 tenants a year who are facing eviction. The volunteers are able to save the tenancies 45% of the time and get time needed to avoid homelessness in another 35% of the cases.

Within New York City there are more than fifty programs. Some of these programs cover specific counties, boroughs, or neighborhoods. Others are organized by subject matter or by size of the *pro bono* law firm. Many are engaged in innovative and collaborative projects. A few examples of their activities include:

- "Associate in Residence" programs, first initiated at MFY Legal Services with Cleary, Gottlieb, Steen & Hamilton, have, with the assistance of Volunteers of Legal Services, been established at Brooklyn Legal Services Corporation B with the law firms of LeBoeuf, Lamb, Greene & MacRae and Kramer, Levin, Naftalis and Frankel. These programs place full-time associates on four month rotations to work along side legal services staff lawyers to provide general civil legal services.
- The Brooklyn Bar Association Volunteer Lawyers Project -- which provides direct representation, brief advice, counsel, *pro se* assistance, information and referral services to poor people in Brooklyn -- has formed a collaborative relationship with the Network For Women's Services that enables the programs to support a shared family law attorney in Brooklyn and Manhattan. The partners seek to expand the concept in a "Cross Borough Collaboration" project that would extend assistance in family law matters to clients in an additional borough, the Bronx.
- A summer program organized by New York Lawyers for the Public Interest places summer associates from major law firms at over 20 legal services offices to assist in providing services to clients.
- For many years the LAS has operated a Volunteer Division which, together with the Society's Civil Division, provides *pro bono* opportunities for some 1,000 volunteer lawyers annually.
- In addition, at LSNY, private *pro bono* attorneys regularly attend the substantive continuing legal education sessions organized by the Legal Support Unit. In 1997, Legal Services for the Elderly joined with New York Lawyers for the Public Interest, the Association of the Bar of the City of New York, and Cardozo Law School to train 100 attorneys to take home care rights cases. LSNY also leverages resources through contracts with Volunteers of Legal Services (VOLS) and the LAS for assistance in obtaining private attorney *pro bono* representation for eligible low-income persons. Brooklyn Legal Services Corporation B has initiated a contract with the Brooklyn Bar Association Volunteer Lawyers Project to handle 160 divorces.

- VOLS *Pro Bono Training Calendar* is published six times a year. It lists training programs conducted in New York City by legal services and other public interest organizations for lawyers wishing to undertake *pro bono* work.
- To assist in recruitment, coordination and communication in New York City, the Association of the Bar of the City of New York and VOLS publish a booklet: *Pro Bono Opportunities: A Guide for Lawyers Within New York City*.

An effort has been begun to help the New York City programs to be even better coordinated. Michael Hertz, a partner at a major New York City law firm, has taken a leave of absence for a fellowship at the Open Society Institute. He is devoting his fellowship to creating an Internet network of *pro bono* programs and *pro bono* volunteers. The network, *Pro Bono Net*, will assist *pro bono* programs in recruiting *pro bono* attorneys and referring *pro bono* cases. It will also assist *pro bono* attorneys in identifying cases of interest, accessing training materials and seeking technical assistance.¹⁰ Moreover, while the original focus of *Pro Bono Net* is New York City, Mr. Hertz has indicated a strong desire to develop *Pro Bono Net* networks for upstate programs, as well.

A national coordination resource is located in New York City, as well. *Pro Bono Students America*, at New York University School of Law, is a database that allows students at 110 member schools to search for *pro bono* placements. The database currently lists almost 7,000 organizations with available *pro bono* opportunities. Students' experiences inculcate a *pro bono* ethic that continues to inform their work after they become attorneys.

On a statewide basis, there is the New York *Pro bono* Coordinators Network (NYPBCN). When formed in 1984, it was one of the first such statewide organizations of *pro bono* managers in the country. NYPBCN is technically a subcommittee of the NYSBA Committee on Legal Aid, a committee which helps to keep legal services and *pro bono* on the agenda of the NYSBA. NYPBCN has 103 members, representing more than 50 *pro bono* programs from all areas of New York. The Network meets several times a year and provides an excellent forum for staff of *pro bono* programs to share information, strategies and new ideas. The Network also provides an organized means for *pro bono* programs to be heard collectively on issues of statewide and national importance. The Network has always enjoyed the support of the NYSBA, which provides staff and financial support to facilitate the work of the Network.

In 1991, the NYSBA created the Department of *Pro Bono* Affairs and hired its first Director. The Director and his staff, provide staff support for the Network, as well as for other bar committees focused on *pro bono* and/or legal services. The Department provides technical support for *pro bono* programs and distributes information of importance to *pro bono* programs through its quarterly newsletter, *Pro Bono News*, and regular mailings to *pro bono* programs affiliated with the Network.

Another statewide entity of importance for coordination of *pro bono* efforts in New York is the NYSBA President's Committee on Access to Justice. Formed in 1989, it enjoys a high profile and the President-elect of the Bar is annually appointed as one of the Committee's co-chairs. The Committee is charged to consider and implement methods for enhancing access by the indigent to the civil legal system. Among other things, the Committee encourages lawyers to provide more legal services to the poor, *pro bono*, and works to obtain adequate funding for programs designed to assure that the poor have access to civil justice. The Committee accomplishes these objectives through different strategies, including cooperation with local bar associations

and other public and private associations and agencies. Three members of the NYPBCN are also members of the Access to Justice Committee.

The Department of *Pro Bono* Affairs and the Marketing Department of the NYSBA recently conducted a statewide *Pro Bono* Awareness Campaign, under the direction of the Access to Justice Committee. The purposes of this campaign were to create awareness among lawyers of the need for *pro bono* volunteers and donors and the urgency of that need, the value and impact of *pro bono* work and the responsibility of lawyers regarding *pro bono* issues. Two ads were developed and placed in publications around the state a total of 59 times. This was in addition to other publicity, posting on the NYSBA Internet site and direct mail to 8,000 attorneys and law students.¹¹ This campaign was one of the latest examples of statewide coordinated efforts to assist local *pro bono* programs. The campaign was actually designed based upon an earlier coordinated project in which the NYSBA commissioned a study by a marketing expert on why New York attorneys do and do not volunteer their time and/or money for legal services for the poor.¹²

In addition since 1985, the NYSBA has given annual *pro bono* awards for the most outstanding *pro bono* work in each judicial district in the state.

It is the conclusion of the Steering Committee that the current *pro bono* system of working locally and coordinating regionally and statewide is a strength of the over all delivery system in New York. The NYSBA has similarly concluded that:

... the best, the strongest and the most effective volunteer efforts have evolved at a local level, when the local bar, paid legal services staff and the local judiciary and others have come together cooperatively to access the local need and to tailor a local solution. The State Bar Plan strives to replicate that formula for success by relying on local bars for the specific design of local plans.¹³

The Steering Committee is aware of no evidence that contradicts that conclusion, indeed it is clear that:

- Private attorneys represent tens of thousands of individual low-income clients and have become important partners to staff model programs in the overall delivery of civil legal services for low income clients.
- An important side effect of bar associations and private attorneys becoming more involved with *pro bono* work is that they have become vital allies of legal services. Private attorneys who have been involved in PAI activities are better informed about legal services issues and more committed to legal services. As a result, they are more easily mobilized to assist the legal services community with regard to funding and other important issues.
- *Pro bono* has become an important component of the overall delivery system and an essential strategy for working toward the prime goal of providing quality representation for low-income people.¹⁴

Agenda for the Future

The Committee believes that *pro bono* can be strengthened in the following ways:

1. Increasing rural *pro bono* participation presents a specific challenge that should be addressed by *pro bono* and other providers. The Rural Law Center has been working on rural *pro bono* development for the past two years and has agreed to work with the *Pro bono* Coordinators Network to develop and implement new, comprehensive strategies.
2. As more clients move from welfare to work, programs will need to carefully reexamine case priorities.¹⁵ As they do, different legal problems will become more significant. For example, keeping possession of a car will be part of many clients' safety net, allowing them to hold down a job. As more clients work, protecting their nonexempt assets from creditors will become more important. The NYPBCN will examine this challenge and, with input from other statewide entities, develop proposed recommendations for local programs.
3. Increasing the amount of volunteer work done by *pro bono* attorneys is essential. It has been said accurately that *pro bono* is not free, but it is a leveraged resource that expands access. Getting quality *pro bono* representation from volunteers requires dedicated staff to screen and prepare cases, recruit and train the *pro bono* attorneys and provide case follow-up, oversight and technical assistance. To meet the goal of increasing the amount of volunteer work being done by *pro bono* attorneys, as is the case with other components of the delivery system, more staff and funding are required for *pro bono* programs.

G. System Configuration

How should the legal services programs be configured within the state to maximize the effective and economical delivery of high quality legal services to eligible clients within a comprehensive, integrated delivery system?

Current Activities and Analysis

The legal assistance delivery system for poor clients in New York consists principally of grantees of the IOLA Fund, which includes all LSC grantees. Consistent with its statutory mission, IOLA, over the past few years, has expanded the number of grantees and increased the number of grant awards for the delivery of legal services because of large underserved populations, some of whom have highly specialized needs such as immigrants, children, and disabled persons; geographic considerations, such as the many low income people residing in rural areas and newly-poor areas resulting from changes in the distribution of poor people across neighborhoods or counties; the loss of services caused by Congressional restrictions placed on LSC-funded providers and the need to develop alternative forms of dispute resolution.

Small grants, focused on particular problems, under the right circumstances, can be effective, cost efficient and can leverage resources and other support which lead to increases in direct services and innovation in delivery mechanisms. IOLA's grantmaking has also helped build significant community and bar support for the continued funding of civil legal services for the poor at the state and local levels.

The Steering Committee believes that the best way to develop and implement statewide initiatives to improve service delivery, increase resources and enhance the capacity of this system to meet the civil legal needs of

low income people throughout the state, is through intensive program collaboration at both the state and regional levels, without altering service areas or historical relationships at this time.

However, it is also agreed that the present configuration should not restrict future configurations from evolving; rather, the form of the configuration should follow the function of the system, which is to maximize and develop a full array of high quality legal and related services to clients throughout the state. Mergers of programs and reconfigurations should not be undertaken for their own sake, but when undertaken must result in significant cost savings and/or improved or expanded services to clients. The benefits achieved through merger or reconfiguration must clearly outweigh the disadvantages and costs associated with disrupting the existing configuration.

Programs, to date, have not identified administrative or other cost savings to justify merger or reconfiguration. The LSC-funded programs in Western New York studied this issue extensively during a series of six meetings held from February through September 1998. Administrative costs were found to be generally low, even in small programs where project directors still carry partial caseloads and administrative support staff perform multiple functions, from officer manager to bookkeeper to in-house computer troubleshooter to secretary. Advances in technology and the acquisition of inexpensive bookkeeping and accounting software have also led to reduced administrative costs and increased efficiency. In addition, small programs have derived benefits from close relationships with local governments and other human services providers. For example, one small program receives free space and utilities and two other small programs have collaborative arrangements for local computer consultants.

When compared to the charges that would be assessed by a larger program in order to take over the administrative functions for a smaller program, no cost savings were identified. A significant additional factor that weighs against merger is the differential in staff salary and fringe benefits in individual programs which, if merged, could cause a reduction in the total number of case handlers as salary and fringe benefits became equalized. This is especially true in small programs like the Niagara County Legal Aid Society and North Country Legal Services whose neighboring programs have more highly compensated staff.

Key strengths and weaknesses of the present configuration are set forth below.

Resource Development

LSC-funded programs, regardless of size, raise significant amounts of non-LSC funding. For example, Legal Aid for Broome and Chenango in 1997 raised \$637,885 compared to its LSC grant of \$232,309 making it the fourth best-funded program in the state on a dollar per poor person basis -- \$24.53.

Programs have collaborated on a statewide basis to obtain state grants and continue to do so for services involving disability advocacy, domestic violence, homelessness prevention, and advocacy and protection grants. Until recently, a number of programs were also successful in obtaining general purpose state funding. As discussed in the resources section of this report, programs are now working collaboratively to support a \$40 million state appropriation for civil legal services as recommended by the Chief Judge's Legal Services Project.

Programs have collaborated on a regional basis to raise additional funding and continue to do so. For example, four programs in the Central Region of New York contracted with a grant writer and applied for a grant for the combined regional service area. Three programs in the western part of the state have also recently collaborated on a regional funding proposal.

Programs have collaborated with each other and social services organizations in the same region to obtain additional funding and continue to do so. In the Central New York region, two legal services programs, one funded by LSC, were recently awarded a U. S. Department of Justice grant for Civil Legal Assistance for Victims of Domestic Violence in a collaborative effort that will also involve partnerships with local community-based organizations and domestic violence shelter providers. In Utica, a special state grant was received by the LSC provider and a family counseling provider to prevent the unnecessary placement and retention of children in foster care; the same LSC provider has joined four other local agencies in a joint application for a federal welfare-to-work grant. In Rochester, one LSC provider has worked collaboratively with other legal assistance and social services providers to obtain additional United Way funding. Nassau/Suffolk Law Services received \$150,000 from the Nassau and Suffolk County Bar Associations to support jointly run *pro bono* efforts. The LSNY Legal Support Unit has partnered with the New York Association for New Americans, and the New York Society for the Deaf to obtain support from the Fund for New Citizens for a collaborative project to assist immigrants with government benefits issues. In addition, the LAS of New York City has entered into a retainer arrangement with the Coalition for the Homeless to fund a staff attorney to provide legal assistance to homeless persons.

Access to Services

The present configuration promotes client access to legal services programs throughout the state through the wide distribution of local offices and intake sites established by locally-based programs.

Programs identify the needs of clients at the local level through the priority-setting process and allocate resources accordingly. The process is efficient and assures that local needs are not easily overlooked or ignored. Local control has meant responsiveness to local needs. An example is the work performed by Brooklyn Legal Services Corporation A in providing legal services to a community group in order to establish a community-based health care center.

Programs in the present configuration are able to respond to the needs of clients to appear in many local and town and village justice courts that are dispersed throughout the state, with more than 100 such courts in the North Country alone. Larger configurations would make this important type of representation needed by low-income clients more difficult and costly, especially throughout rural areas of the state.

Innovation and Experimentation

The present configuration of strong, local, independent programs provides a fertile ground for experimentation and innovation without jeopardizing a substantial part of the delivery system. For example, *pro se* divorce clinics developed by Legal Aid Society of Northeastern New York are now being developed in North Country Legal Services and Legal Aid Society of Mid-New York. Programs in the western part of the state have agreed to form the Western Community Legal Education and Training Collaboratives.

Diverse and Specialized Service

Many programs in the state provide services to clients with a particular category of legal need or who are members of a category with similar needs. A few of many that could be cited include:

- Student Advocacy in Elmsford, New York, collaborates with families, schools and the community to help young people succeed in school. The program provides helpline services, representation for students at school meetings and training for parents and professionals on educational rights. Among other achievements, the program has obtained favorable dispositions in the great majority of suspension cases handled at Superintendent's hearings and negotiated the resolution of many of the underlying emotional and academic problems or disability issues that precipitated such suspensions.

- Disability issues are addressed by the New York City-based New York Lawyers for the Public Interest through its Disability Law Center and *pro bono* oriented-Disability Rights Task Force. In addition to providing direct representation, advice, non-litigation advocacy services or referrals for disabled persons, the Center acts as a statewide backup center for advocates for persons with disabilities. Such backup is provided to legal services programs as well as provider groups that assist clients with disabilities. The program distributes a Disability Network Newsletter and numerous legal education materials. The program conducts a training program for attorneys, advocates and individuals.
- In Buffalo, Legal Services for the Elderly, Disabled or Disadvantaged of Western New York serves elderly Western New Yorkers in need in a five-county area and at the Seneca Nation of Indians reservation. The program assists clients with health, housing, income maintenance, consumer and other legal issues. The program's *pro bono* activities generate additional legal resources.
- Farmworker Legal Services of New York and the Farmworker Law Project of the Legal Aid Society of Mid-New York together provide a full-range of services to migrant and seasonal farm workers across the state. Typical cases involve employment, health, individual rights and income maintenance issues.
- Lawyers For Children (LFC) serves economically disadvantaged, often neglected or abused, inner city children of New York City. On behalf of each child, LFC employs a multi-disciplinary approach. A lawyer and social worker, each with extensive experience and training in child advocacy, work together offering a full range of legal and social workservices. Representative cases include foster care matters, termination of parental rights proceedings, abuse or neglect proceedings, custody and visitation cases, guardianship/adoption cases, paternity proceedings, family offense proceedings, brief advice on family or individual rights issues, educational and income maintenance issues.

Responsiveness to Changing Needs

The present configuration is responsive to changes that affect the ability of LSC providers to deliver the full array of legal representation needed by clients, as when the LSC statute was amended to restrict the work that could be performed by LSC grantees and the use of non-LSC funds. As an example of such responsiveness, IOLA has supported new providers such as law school fellows, WNYLC and the Rural Law Center to fill the void that was created.

Programs have demonstrated that the configuration can change when it is the best way to improve or expand services. Several examples illustrate this point: in 1990 Mid-Mohawk Legal Services decided to dissolve and invited the Legal Aid Society of Mid-New York to cover its service area; in 1996 the Legal Aid Society of Rockland County, the Legal Aid Society of Northeastern New York and Westchester/Putnam Legal Services began serving the area formerly served by Mid-Hudson Legal Services and, in 1997, Oak Orchard Legal Services voluntarily subcontracted with Monroe County Legal Assistance Corporation instead of receiving LSC funding directly.

To maintain the quality of New York's diverse network of providers and to ensure responsiveness to changing needs, IOLA manages a thorough grantee reporting and evaluation system that has been recognized nationally as one of the best funder-based systems for ensuring quality. Through the IOLA reporting system all IOLA grantees, including those that also receive funds from LSC, report annually on the details of their

programs' operations, including cases handled and outcomes. The compilation of this material by IOLA provides an effective means of evaluation and comparison, ensuring that quality is maintained or that the system can knowledgeably adapt in response to changing needs.

System Leadership

The system has facilitated the growth of a diverse network of leaders. Many project directors meet regularly as a group in the Project Directors Association to review issues of legal services management and funding. The group has continued to expand its membership and coordinates statewide efforts to obtain, maintain and restore state funding (in areas such as disability advocacy and homelessness prevention).

The current configuration benefits from conscious leadership development by the Project Directors Association and the IOLA Fund. Programs have also developed regional leadership through collaboration in a variety of areas. This includes substantive task forces upstate and New York City, mutual funding efforts and the regional meetings prompted by this state planning process.

Local boards of directors foster development of board and bar leadership who strongly support legal services. Local board members, familiar with the work of their local programs, are the best advocates at the local and statewide bar.

Challenges of the Present Configuration

Programs in the entire configuration do not meet on a regular basis and there is no support staff to assist the present leadership to prepare for the meetings and to follow-up on agreed-to actions. There are many project directors, from programs that do not receive LSC funds, who do not attend the joint provider meetings.

While the present configuration has worked well together on important funding decisions, state planning requirements and the organization of the Legal Assistance Partnership Conference, there are areas where the legal services community could be more proactive.

The decentralized configuration of many separate providers challenges their ability to work collaboratively on important issues. Throughout this report, the Steering Committee has identified such opportunities in each of the key areas (such as resource development, coordination of legal work, intake and technology). Through the continuation of this planning process, the Committee anticipates that we will develop programs and prioritize action plans for each of these areas. Through such continuation of the planning process, the Committee expects that programs will be able to meet the challenges posed by the state's decentralized configuration.

Leadership is needed to ensure continuous state planning, however, and especially to take responsibility for achieving the plans and recommendations set forth herein. Additionally, widely respected leadership will need to be developed to recommend appropriate use for new funds for civil legal services. Tools for creating and enhancing leadership, such as management training, mentoring relationships, mutual support and improved management relationships must be vigorously pursued.

Agenda for the Future

Mobilizing the strengths of the present configuration to carry out the plans and recommendations in this report will be key to its success, as follows:

1. Programs throughout the state have begun to and will continue to organize regional collaboratives and meet on a regular basis to implement this report and to further explore ways to improve and integrate the delivery of legal services to poor New Yorkers. Collaborative subject matter groups are forming as of the writing of this report. As subject matter and regional groups organize, they should insure full participation of a diverse range of providers regardless of funding source.
2. As an outgrowth of this planning process, project directors of legal assistance providers in New York City plan to meet regularly to discuss issues of common concern, including funding, intake, community education, continuing legal education, and technology. The first such meeting is scheduled for December 3, 1998 at the law firm of Davis, Polk and Wardwell.
3. Members of the New York State Project Directors Association will continue to meet to address funding, program management and other key issues. The next meeting will be in New York City in late January.
4. IOLA will continue to support the statewide planning process. Such support will include continuing to facilitate a statewide Steering Committee, endorsing regional and subject matter collaborative groups, and, subject to the availability of funds, continuing to provide support from the IOLA staff for statewide planning and collaboration, including the possible addition to the staff of a program officer whose duties will include planning. IOLA will participate with the representatives of LSC-funded programs, who have been chosen by such programs, in continuing communications with LSC concerning the status of planning and collaboration in the state. IOLA has and will continue to provide similar information and advice to other funders as well. IOLA is presently reviewing whether it can publish a quarterly newsletter on collaboration, innovation and planning.
5. Legal assistance providers will consider holding public meetings from time-to-time to address the issues that confront the legal assistance community;
6. Subject matter and regional groups should complement and not duplicate the work of each other.
7. A program should not always send its executive director to regional and statewide meetings. Assigning less senior staff to represent the program is an excellent method for developing new leadership and creating an opportunity for new voices to be heard.
8. On a regional, statewide, and subject matter basis, all programs should make significantly greater efforts to reach out to each other to ensure all-provider participation in the work that will follow upon this report, in a manner consistent with LSC regulations for LSC-funded providers.

NOTES

1. The IOLA Fund of the State of New York, *Grantee Activity Report - 1996* (February 6, 1998).

2. In 1992, New York civil legal services providers received \$25.5 million from the LSC and \$29 million from IOLA, which comes to \$54.5 million, or \$64 million in 1997 dollars (based on a 17.48% increase on the CPI for the Northeast Region between April of 1992 and April of 1997). Assuming there are no further LSC cutbacks and based on 1998 IOLA funding of \$10.1 million, New York providers can expect \$27.6 million from these sources for FY '97-'98. Thus, the shortfall will be approximately \$38.4 million in 1998 dollars.

3. Legal Services Project, *Funding Civil Legal Services for the Poor - Report to the Chief Judge* (May 1998) at 7. See also, New York State Department of Social Services, *The Homelessness Prevention Program: Outcomes and Effectiveness* (1990).
4. Legal Services Project, *Op. Cit.* at fn. 3.
5. Western New York Law Center, *STAR Watch* Vol. 2, Issue 3, (May/June 1998)
6. Alan Houseman, *Civil Legal Assistance for the 21st Century - Achieving Equal Justice for All* (Center for Law and Social Policy, 1998).
7. *Ibid.*
8. New York State Bar Association, *New York Efforts to Address the Unmet Legal Needs of the State's Poor, Report of the President's Committee on Access to Justice and The Department of Pro Bono Affairs* (1994).
9. New York Pro Bono Review Committee, *Final Report of the Pro Bono Review Committee* (1994), at Appendix B, Table 6, #7.
10. William Dean, *Survey by Volunteers of Legal Service; On Line Site*, New York Law Journal (July 15, 1998) at 3.
11. New York State Bar Association, *Final Report of the 1998 Pro Bono Awareness Campaign* (1998).
12. New York State Bar Association, *Fundraising, Volunteering and Lawyers: An Analysis of Why Lawyers Give Money to Legal Services Agencies and Why They Volunteer Time to Provide Legal Services to the Poor* (1996).
13. New York State Bar Association, *Report of the Special Committee to Review the Proposed Plan for Mandatory Pro Bono Service* (1989) at 32.
14. Houseman, *Text for the Speech on the Legal Services Delivery System in Transition, 1998 Pro Bono Conference*, Center for Law and Social Policy (1998) at 3.
15. Houseman, *Devolution: The Legal Services Response*, Center for Law and Social Policy (1998) at 5-10.