

# West Virginia LSC State Planning Report – 1998

## INTRODUCTION

Before Legal Services Corporation (“LSC”), or its predecessor Office of Economic Opportunity (“OEO”), funding was available, a few small legal aid programs existed in West Virginia. The oldest was the Legal Aid Society of Charleston, founded in the early 1950's. Volunteer bar programs also existed in Wheeling and Huntington. These groups served only the largest communities in the state. The help was limited in availability and scope. The Legal Services Corporation has funded delivery of legal representation to low income people in West Virginia for almost 25 years. During most of that period, four non-profit law firms provided these services. Each served a distinct geographic part of West Virginia. In combination, their work made some level of assistance available in every West Virginia county. Staff attorneys, paralegals, and other non-lawyer advocates; *pro bono* lawyers; and judicare attorneys, in combination, provided the legal services. Virtually no other free legal assistance was available for civil cases.

The primary access to justice in civil court cases for low-income citizens in West Virginia was and is through the network of Federally funded legal aid programs. However, federal funding has been cut drastically. Federal funding for civil legal services programs in West Virginia was \$2.7 million in 1997, down from \$6.7 million (expressed in 1997 dollars) in 1980. In 1980, the four LSC supported programs had more than 70 staff lawyers and paralegals. There were offices in 25 of West Virginia's 55 counties. Including cases handled through private attorney components, the programs served more than 30,000 clients per year. Today, there are fewer than 25 full time LSC supported attorneys; and only 12 counties have staffed offices. The number of clients served is less than 50% of those reached in 1980. Large swaths of West Virginia, which once had local legal aid offices,<sup>1</sup> are now one or two hours driving time (assuming a reliable car) from the nearest legal services program. Following the most recent LSC funding cuts, the largest and smallest of the LSC programs merged their services. There remain three LSC funded programs in West Virginia: the Appalachian Research and Defense Fund (“APPALRED”), the West Virginia Legal Services Plan (“WVLSP”), and the Legal Aid Society of Charleston (“LASC”).

Although hard data are not available from the West Virginia court system, it appears that at the same time that federal funding for legal services programs has been shrinking the number of *pro se* litigants has been increasing. Between 1990 and 1996 domestic violence protective order proceedings in magistrate court increased by 170%, from slightly more than 5,000 cases in 1990 to more than 14,000 in 1996. Domestic relations case filings in circuit court increased 40%, from 14,582 filings in 1990 to more than 20,000 in 1996 (the number of divorce cases actually decreased; the large increase was in non-divorce family law proceedings).<sup>2</sup> A Subcommittee Report from the WV Supreme Court Commission on the Future of the Judiciary notes that "a substantial portion of these cases involve *pro se* litigants . . ."<sup>3</sup> In one recent year in Kanawha County, 75% of the family law cases filed *were pro se*.

A legal needs survey of low income households in West Virginia was conducted in 1990 on behalf of the West Virginia Bar Foundation by Ryan/Samples Research (hereinafter "Legal Needs Survey"). This Legal Needs Survey found that one in three households contacted qualified to

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<sup>1</sup> Romney, Kingwood, Elkins, Webster Springs, Summersville, Fayetteville, Clay, Pineville, Welch, to name but a few county seats which no longer have local legal services offices.

<sup>2</sup> "Overview of West Virginia Judicial System," Ted Philyaw (October 13, 1997).

<sup>3</sup> Page 1, "Adequacy of Pro Se Representation and Services," Report of the Access to Justice Subcommittee to the WV Supreme Court Commission on the Future of the Judiciary (August 1998).

participate in the survey by having incomes less than 125% of the federal poverty level. Of those qualified for the survey, the estimated average household income was \$8,200 per year, and the average number of people per household was 2.64. The estimated average age of respondents was 52 years; one-fourth of the households included a handicapped person; and 40% of the households included a person age 60 or older. Nearly half of the people questioned lived in low income households where at least one person was employed; and over two-thirds of the low income households owned or were buying their home. In 1990, ten percent of the households in West Virginia did not have telephones. The information obtained from respondents to the Legal Needs Survey was used by all LSC funded programs in their needs assessment and priority setting process.

Aside from the three LSC funded programs, there are very few other legal resources available to low income clients in West Virginia. A relatively new non-LSC funded program known as Mountain State Justice provides limited legal assistance on a statewide basis. It is not restricted by the recent limitations imposed by Congress on the LSC funded programs, and engages in class actions, welfare reform, environmental, consumer, education and prisoner litigation, as well as individual cases outside the domestic relations arena. Mountain State Justice has approximately three full-time attorney equivalents.

The West Virginia Bureau of Senior Services (BOSS) provides funding of approximately \$80,000 annually to assist in meeting the legal needs of senior citizens. These services are not limited to low income seniors, but are intended to be targeted primarily for the kinds of legal needs low income seniors have. That funding presently goes to the North Central West Virginia Legal Aid Society (which no longer receives LSC funding), in order to support at least one full-time lawyer specializing in issues affecting senior citizens. At the current time the primary service provided by NCWVLAS is a telephone hotline operating on a statewide basis, with a small number of cases handled by direct representation. The amount of funding allocated by BOSS has not changed since the 1980's.

In addition, there are public agencies which provide some assistance to West Virginia residents, including low income people. The West Virginia Attorney General's office provides consumer advocacy and advice, to a limited extent; and also provides representation for *pro se* complainants for whose complaints the Human Rights Commission has found probable cause. The State of West Virginia has a wage and hour division to investigate and occasionally litigate wage issues. The Bureau for Child Support Enforcement of the West Virginia Department of Health and Human Resources collects child support and alimony for all custodial parents and recipients of alimony. Appointed counsel is available for abuse and neglect cases, and for juvenile cases (in addition to criminal cases).

Some domestic violence groups have access to volunteer lawyers for consultation or brief assistance. The College of Law at West Virginia University provides limited help to low-income persons living in the general geographic area around the University through small clinical classes and a focused program addressing poverty in Appalachia. The law school programs are coordinated with the WVLS. The West Virginia State Bar has a toll-free telephone information service available two hours per week. There is a low cost (\$10 for one-half hour) Lawyer Referral Service available in some areas, for some legal topics, coordinated by the West Virginia State Bar.

There are some providers of paralegal services to the community. The thirteen domestic violence shelters in West Virginia have advocates who attend domestic violence hearings with

victims; but who are not able to participate directly because they are not attorneys. The Mountain State Center for Independent Living provides some assistance to people with disabilities; and the developmentally disabled can secure advocacy help from the West Virginia Advocates, a state funded agency for the developmentally disabled. For all practical purposes, there are no other civil legal resources available to the eligible client population. West Virginia ranks very low among the states in terms of dollars per poor person available for civil legal services, ranking 41<sup>st</sup> among the states at \$12.69 per poor person.

The shrinkage of federal funds has been only partially offset by the "Interest on Lawyer Trust Accounts" (IOLTA) concept. Implemented by the WV Supreme Court in 1991, the IOLTA Program generated approximately \$800,000 for civil legal assistance in 1997, making up less than a third of the \$2.7 million loss of federal funding since 1981. A portion of the IOLTA funding is directed to Mountain State Justice, to provide services which cannot be given by the federally-funded programs. No other state funding supports the provision of legal assistance to poor people.

The problem of adequate funding for provision of legal assistance to low income West Virginians is being examined by the West Virginia Supreme Court's Commission on the Future of the Judiciary. Preliminary recommendations from a subcommittee of the Commission include the following four specific funding enhancements:

- Increase the civil filing fee, with the proceeds dedicated to the civil legal assistance programs.
- Implement a civil response fee, to be paid by defendants who use the court system to respond and contest a court action.
- Direct state appropriation of financial support.
- Dedicate abandoned assets from lawyer trust accounts and unclaimed court bonds for the support of civil legal assistance programs.

The stark reality is that fewer legal services are available to fewer people in more limited legal topical areas than were available in 1980. These legal services are provided by more groups and organizations than existed in 1980. They use creative approaches to make their assistance as widely available as possible -- but their combined resources are significantly smaller than the resources of the LSC supported groups two decades ago. In that same time period, the low income population has grown by 20%. The task facing the Legal Services Symposium is to coordinate and plan how to most effectively use current resources on a State-wide basis to reach people in need. It must effectively identify and address the problems these clients face, find more resources to provide for and support their needs, and ensure the services available compliment and support each other, rather than being duplicative.

## **THE LEGAL SERVICES SYMPOSIUM**

The Legal Services Corporation mandated a statewide planning process in 1995 and again in 1998. The group addressing this mandate in West Virginia originally was titled the "Blue Ribbon Symposium on Delivery of Civil Legal Services to the Poor". Now known simply as the "Legal Services Symposium," it functions today as a committee supported by The West Virginia State Bar. The group began its work before the LSC mandate in 1995, and will continue meeting and working

long past the deadline specified in the 1998 LSC statewide planning process.

Impetus for the original organization of the group came from Congressional actions and activity during 1994 and 1995. A loss of funding for civil legal services seemed inevitable. Before the threatened loss of LSC funding, a reduction in available, accessible services for low income people in West Virginia had been recognized by the State Bar leadership, others in the Bar, the general community and by clients. The President of The West Virginia State Bar elected in April, 1995, Thomas Flaherty, as a major part of his presidency, emphasized the organization and implementation of the LSC planning process. In the spring of 1995, the Legal Services Symposium held its initial general meeting, attended by representatives of the groups listed above. There was unanimous agreement on the need to act. The Symposium divided into subgroups to address issues involved in the crisis facing the legal services programs and the delivery system for civil legal assistance generally.

All three LSC funded programs have been active in the Legal Services Symposium from its beginning in 1995. The Legal Services Symposium has had active membership of all five members of the West Virginia Supreme Court, several Circuit Court judges, two Federal District Court judges, and the President and other officers of The West Virginia State Bar. Its meetings include leaders in voluntary bar associations, members of the banking community, members of the general public, key members of the private bar, client representatives, state government lawyers, and representatives from the legal services programs, both LSC and non-LSC funded.

In 1995, through the Legal Services Symposium, State Bar officers and other leaders of the legal community joined with legal services providers to address the problem of funding. An examination was made of supplementary funding mechanisms used in other states. Due to the relatively small size of the West Virginia bar membership, many of those alternative devices (such as a bar dues check-off) were not pursued because they were unlikely to produce significant revenue. The general conclusion was that the only realistic sources of funding streams sufficiently large to "make a difference" lay in the legislative arena. Bills to devote general tax revenue for legal services have been introduced in the state legislature every year starting in 1996; and filing fee bills were introduced on an annual basis prior to 1996. So far, the legislature has not passed any of these bills.

Effective action changing the delivery system of free legal assistance in West Virginia was taken with the support of the Symposium membership in 1995 and 1996. The West Virginia Legal Services Plan and the LSC funded components of the North Central West Virginia Legal Aid Society were merged. These two programs were the largest and smallest in the state at the time of the merger. The action was accomplished with no staff layoffs at the end of 1995. The North Central West Virginia Legal Aid Society itself continues as an organization, representing senior citizens through Older Americans Act funding. That assistance is described elsewhere in this report and is a valuable part of the overall delivery system for legal services in West Virginia.

Bar counsel, with assistance from Symposium members, provided guidance on the transfer of cases, potential liability issues, and ethical concerns related to the transfer of open cases, in the six county region formerly served by the North Central West Virginia Legal Aid Society. Clients continue to be served, and the transition from two programs to one generally has been smooth. WVLSR relocated the local office and remodeled it into an ADA compliant site, easily reached by all clients. Computerized research and access to CD-ROM libraries are available for advocates. The expertise of the advocates and support staff transferred from the North Central West Virginia Legal

Aid Society to the WVLSLSP are a valuable part of WVLSLSP resources. WVLSLSP private attorney involvement programs have replaced the PAI components from the NC WVLAS. Their impact has been supplemented and increased by the participation of former NC WVLAS participating attorneys and board members.

At the same time these two Legal Services Corporation programs were merged, Symposium members organized a new non-LSC funded private, non-profit law firm, Mountain State Justice. MSJ has the equivalent of three full time staff lawyers working primarily from one location, with outreach work provided in other places. Mountain State Justice is available to clients throughout the state. MSJ focuses on services which are not available from programs or attorneys receiving LSC support, particularly cases traditionally viewed as impact or law reform work. MSJ also represents low income clients in routine matters where attorney fees are available, and represents the interest of low income persons in legislative and administrative rule making proceedings. Public advocacy on behalf of the interests of legal services programs and low income clients is also part of MSJ's mission. Symposium members were strongly involved in discussions concerning the organization of the Mountain State Justice program. They helped select the activities it would undertake and obtained initial funding and support. Some members of the Symposium also have served, or are serving, as members of the board of directors of Mountain State Justice.

Symposium members provide guidance, information and leadership to the IOLTA Advisory Committee of The West Virginia State Bar, the West Virginia Bar Foundation and the West Virginia Supreme Court of Appeals concerning the use and distribution of IOLTA revenue in West Virginia. Modifications to the original court orders establishing the IOLTA program provided a stable source of funding for Mountain State Justice. This was accomplished without significant additional harm to the funding available to the Legal Services Corporation supported law firms. Other IOLTA revenue was directed to activities furthering development and availability of resources to low income persons in civil cases. The State Supreme Court of Appeals continues to be involved in Symposium activities and issues, providing an important part of the judicial input into the statewide planning process and support system for legal services delivery.

The Symposium has encouraged a high level of public support for civil legal services availability to low income persons. More than one-third of the lawyers in the state participate in PAI components of the three LSC funded organizations. In one county, 100% of the lawyers are active participants, providing advice and counsel, full services, conflict representation and other PAI support to more than 350 clients per year. Statewide, well over 2,000 cases are handled annually under the PAI components. The Symposium has supported innovative development of PAI services, recognizing that distinct geographic, economic and social areas in West Virginia make a mandated, one form response to PAI resource development impractical and unacceptable. Recognition, support and encouragement of local initiatives involving and drawing on the interests and activity of local bar organizations, members of the judiciary and communities is a far more valuable response.

The broad acceptance and encouragement of the IOLTA system by private lawyers and the West Virginia Bankers Association demonstrates the support for legal services. The existence of the Symposium indicates the general public support for legal services programs and the concept of making legal services available to low income people. Legal services also has support from educational institutions such as the College of Law at West Virginia University and strong congressional support from all members of the West Virginia delegation. Congressman Alan

Mollohan, after contacts from several members of the Symposium and discussions concerning the issues involving legal services, has been very active in his role as ranking minority member of the House Appropriations Subcommittee addressing Legal Services Corporation funding.

After assisting in the transition to reduced funding in 1995, the Symposium continued to meet; but, direct actions taken were less significant in 1997 than earlier. After the NLADA meeting in December, 1997, Symposium members were alerted to LSC's continued interest in statewide planning. A January 1998 meeting of the Symposium included extensive discussions of the LSC position and the implications for West Virginia. By April, additional meetings of Symposium subcommittees, including representatives of the private Bar, the State Bar leadership and the Legal Services funded programs, resulted in recognition of a need to broaden the membership of the Symposium. At its April meeting, the Symposium began addressing the mandated procedures in LSC Program Letter 98-1, as well as considering actions beyond those envisioned in the LSC mandates. The Symposium began to create the sections of this preliminary state plan in order to comply with the 1998 deadline imposed by the LSC.

As noted in several of the sections of this planning report, the actions and support of the Symposium will continue past the October 1, 1998, report deadline. The Symposium will provide a stable, statewide support system for the continued innovative development and delivery of coordinated, effective, economic and high quality legal services in civil cases to low income clients in the state.

## ISSUE ONE: Delivery Network that Maximizes Assistance

### I. Current Status

Top priority areas identified by the three LSC funded programs include domestic violence and protection of primary caretaker rights, income maintenance, preservation of shelter, access to legal information, and health issues.<sup>4</sup> The LSC funded programs coordinate closely with the domestic violence shelters, but no other provider supplies significant legal assistance to low income people in the top priority areas of the LSC programs. For the most part, the three LSC programs have prioritized legal needs for which other sources will provide representation to be lower on the assistance priority level. For instance, none of the programs expend much in the way of resources on child support collection because the Child Support Enforcement Division of the West Virginia Department of Health and Human Resources takes on this task. Similarly, the LASC has chosen not to do discrimination matters, and wage and working conditions cases, because these matters are handled by state agencies and private lawyers in their service area.

For many years APPALRED maintained a full-time staffed office in all but one of the county seats in its eight-county service area, in order to provide equal access to all eligible clients. With the reduction in funding for 1996, APPALRED had to reduce staff significantly and rearrange office patterns. Presently, it has a central office in Charleston and three full-time staffed regional offices to serve its eight counties. Each regional office -- Beckley, Logan and Princeton -- has two or more attorneys and serves two or three counties. Each of the other counties has an intake office for meeting clients. Toll-free 800 numbers ring into the regional offices and the Charleston office, and appointments are made for specific times when staff attorneys visit unstaffed offices.

The LASC houses all advocacy staff in its main office in Charleston (the county seat of the most populous county in the state). Charleston-based staff serves the other three counties in its service area, all small counties, by circuit riding to part-time offices that LASC shares with other social service agencies. LASC maintains local telephone numbers in each county, which staff answer locally on days when the office is open and have forwarded to Charleston when the office is closed (at no cost to the caller). LASC also maintains a toll-free 800 number answered in the Charleston office during all working hours.

The WVLSP serves the remaining 43 counties in West Virginia. It maintains a central office in Charleston and seven regional offices to serve these counties. Twenty-three of the counties in its service area have total populations of less than 20,000 people.<sup>5</sup> Three of its regional offices have only one attorney, but are maintained despite expense in order to be a resource to clients who otherwise would have to drive 100 or more extra miles to reach the next nearest office. The WVLSP's 43 county service area includes most of the West Virginia counties that have a very low population density. The WVLSP maintains a toll-free 800 number in its central office in order to provide access and make appropriate referrals for clients in counties in which it does not have a

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<sup>4</sup> The three LSC funded programs have each formulated their priorities in slightly different language, but those priorities are all generally similar.

<sup>5</sup> *West Virginia and Service Delivery Areas: Annual Planning Information for FY98*, West Virginia Bureau of Employment Programs. By contrast, APPALRED has no counties under 20,000 total population, and LASC has only one such small county.

regional office.

There are significant barriers to access to legal services in West Virginia. There is virtually no public transportation, and the road system, outside main arteries, is not very satisfactory. Although physical distances are not great, they seem large because of the mountainous terrain and the inadequacy of the road system. Further, because of the rural nature of the service area, and the cost structure of telephone service, a significant percentage of potential clients lack telephone service.

All but one of the LSC funded program offices in West Virginia are wheelchair accessible although they may not meet all technical ADA standards. It is difficult to secure space that completely meets ADA standards due to the depressed economic conditions and the fact that there are few new buildings. Attorneys from all LSC funded programs travel out of their office to alternative contact locations (and occasionally to private homes) to meet with potential clients who can not physically get into the office on account of disability or other health problems.

With the exception of the migrant program operated by the WVLSP, West Virginia consists almost exclusively of English speaking population. The migrant population includes both Spanish speakers and a significant number of persons who speak a Creole Patois. All programs provide Spanish and other interpreters as needed, and the WVLSP has Spanish speaking staff members in appropriate locations. The WVLSP also has hired a Creole speaking worker part-time during the summer, when possible, to interpret, assist in the preparation of materials, conduct outreach and assist with hearings or other trial preparation.

An experienced staff member screens potential clients who call on the local or toll-free numbers for financial eligibility, conflicts of interest, urgency of problem, and subject matter of problem. They give eligible clients an appointment with an attorney for qualifying legal problems. The same process is used with walk-in clients. In addition, telephone message or answering systems and devices are available in all offices, and each office of the WVLSP has a TDD device for communication with the hearing impaired (APPALRED and LASC utilize the operator assisted relay system). The timing of the attorney appointment depends on the urgency of the case. Walk-ins generally will see an attorney right away, if one is available, if they have an emergency problem or if they have serious transportation issues. The initial intake staff have been trained to deal with clients in a friendly and courteous manner, and to recognize priority and emergency cases.

The speed with which assistance is provided depends upon the nature of the potential client's problem. People with emergency cases, such as evictions or utility cutoffs, can usually be seen on a same day or next day basis. Less urgent matters are scheduled for the next attorney intake day, generally no more than one week away.

Outreach to people with disabilities is done through the Mountain State Center for Independent Living and the West Virginia Advocates (an advocacy organization for the developmentally disabled). With the exception of the Charleston, Huntington, Parkersburg and Wheeling areas, there are no metropolitan statistical areas in West Virginia. Over 75% of the West Virginia eligible client population resides entirely outside metropolitan areas, and should all be considered rural.

West Virginia in 1997 became the state with the oldest average age of population, and the trend to an aging population is expected to continue.

Allocations of Older American Act funding by the WV Bureau of Senior Services to address the legal needs of seniors has not changed in ten years. No agency has done real assessment of how the aging of WV's , population will affect the legal needs presented to the civil legal services programs.

## **II. Short Term Plans**

Access has always been a high priority for legal services programs in West Virginia. The legal services programs will continue to work together to coordinate and develop the maximum access possible for citizens of West Virginia within the limits of staff and fiscal resources.

## **III. Long Term Directions**

Work with the State Bar, the Supreme Court or another appropriate entity to enhance access by hosting an Internet web page containing self-help forms and explanatory materials. This site would be accessible to all legal services offices and to social service providers assisting low income people with legal problems. It would also be accessible through county libraries and public schools.

Collaborate to create video presentation materials for use in the library systems throughout West Virginia; since each county has at least one library, and many have more than one library location, with equipment for video material review.

Develop a statewide telephone hotline system for intake, advice and referral.

Develop relationships with providers of social services to low income people in order to exchange information on a statewide basis regarding service delivery to low income people.

Develop multiple video conferencing sites, in collaboration with the private bar, courts and state government. The sites will allow clients to reach staff attorneys and receive real time advice and brief service, or to provide staff attorneys with information needed to proceed with their case. This should be planned to coordinate with and utilize the Governor's Project 2001 initiative, which aims to install high-speed Asynchronous Transfer Mode ("ATM") communications technology in state and local government offices throughout the state.

Establish a study group to evaluate the special needs of senior citizens.

Evaluate training or lay people to provide assistance in rural counties, as has been done by many domestic violence shelters in West Virginia.

## **ISSUE TWO: Utilization of New Technology**

### **I. Current Status**

Over the past fifteen years, the LSC programs have enhanced their technological position dramatically. They have gone from having only the computer supplied by the LSC (plus, in one case, an extra computer for database, inventory, payroll and some financial records) to having a computer available for the desk of every staff member, with a high speed modem in at least one computer in each office. The three LSC funded programs have not coordinated with each other concerning technology in the past, although all programs have significant numbers of PCs to help perform legal work.

At present, the various LSC program offices use laser printers or inkjet printers, depending on the size of the office, through printer sharing devices or free-standing printers. Although there is a computer on the desk of every secretary and advocate, the computers have not yet been networked, except for two computers in the APPALRED Charleston office. All programs have WestLaw access in each office, and the LASC has HandsNet and the WV State Bar's TechNet system access in its Charleston office. LASC and WVLSLSP currently have computerized case management software and timekeeping software in place. All offices have high speed copiers and fax machines, and three WVLSLSP offices have scanners.

#### **a. Client intake**

At this time, only the WVLSLSP has the capacity to record client intake information on a computer, through the most current version of Kemp's Caseworks. APPALRED and LASC do not currently utilize computer technology in collecting intake data.

#### **b. Case management**

WVLSLSP utilizes the most current version of Kemp's Caseworks for case management. This system generates calendar reports, tickler dates, diary dates, docket calendars, and follow-up notifications for clients, advocates, supervising lawyers and program management. LASC utilizes an older version of the same program. At present, APPALRED does not utilize a computerized case management system.

#### **c. Timekeeping**

WVLSLSP has a partially automated timekeeping system with centralized storage and retrieval. LASC similarly maintains timekeeping information in a computer database. APPALRED has a manual system for timekeeping.

#### **d. Financial management**

APPALRED's financial management has been computerized for several years in the Charleston office, using Peachtree accounting software. LASC utilizes the financial management software provided by the LSC some years ago, supplemented by separate spreadsheet programs. WVLSLSP also has an automated financial management system, using the most recent version of MAS 90, including the general ledger, all accounts payable, payroll and supporting journals. All software utilized by all programs provides monthly management reports on all fiscal issues, including revenue and support, expenses, accruals and other charges.

#### **e. Legal research and litigation support**

Automated legal research, although almost prohibitively expensive, is undertaken on WestLaw as needed. The three LSC programs subscribe to WestLaw through the LSC block purchase. In addition, some legal research is accomplished inexpensively on the Internet through the World Wide Web. WVLSLSP has switched over to CD-ROM for primary library resources because of the size of its offices. The other programs have some access to CD-ROM versions of some treatises, and West Virginia case and statutory law is available in some offices on CD-ROM.

Presently, APPALRED uses WordPerfect 5.1 throughout its offices for word-processing. WVLSLSP now uses version 8 of WordPerfect for Windows. LASC uses both WordPerfect 5.1 and WordPerfect 6.0 for Windows. Each program has used the document assembly capabilities of the version of WordPerfect used in its offices.

#### **f. Plans for using the Internet**

WVLSLSP has Internet capacity in all of its offices, but presently only the Charleston office has an Internet provider in place. APPALRED and LASC have Internet providers for their Charleston offices, where Internet access is used primarily for communication with the Legal Services Corporation, both by e-mail and by visiting the LSC web pages on the World Wide Web. The Internet occasionally is used for legal research on the World Wide Web, and all programs have bookmarked several legal research sites on the World Wide Web, as well.

## **II. Short Term Plans**

The LSC programs will be providing local area networks in each of their main and staffed regional offices. All staffed offices will have Internet access, allowing the regional offices to communicate via a high speed fax/modem for the purpose of e-mail and sharing case data, as well as facilitating legal research. APPALRED will purchase 13 Pentium II computers for its offices, with complete networking to be accomplished. The LASC plans to network its main office, and the WVLSLSP also will network each of its offices.

**Client intake.** Both LASC and APPALRED will purchase the current version of Kemp's Caseworks. They anticipate that all intake data collection forms will be completed on a computer in the near future. The three programs are discussing collaborating to use a computer with an employee for hotline intake, information and advice.

**Case management.** APPALRED, as it succeeds in networking field offices, and connecting them via the Internet and modems to the Charleston office, will purchase the current version of Kemp's Caseworks. In connection with such case management software, it will automate its intake form completion procedure. LASC will also update to the current version of Kemp's Caseworks and automate its intake system.

**Timekeeping.** All three programs will use the timekeeping functions of the most current version of Kemp's Caseworks, once it has been purchased. At WVLSLSP, where the program presently is installed, the transition is imminent. The other two programs will automate timekeeping in conjunction with purchase of Kemp's Caseworks.

**Financial management.** APPALRED is considering upgrading to a more sophisticated product than Peachtree; and the LASC similarly plans to upgrade its financial management software. No

determinations have been made as to the particular software package(s) to purchase. WVLSLSP will upgrade MAS 90 as part of the program's overall technology upgrade, but does not anticipate a major change in financial management software in the near future.

**Legal research and litigation support.** Legal research will be accomplished inexpensively on the Internet through the World Wide Web. All programs will be adding CD-ROM versions of some treatises and West Virginia case and statutory law to their current capacity. APPALRED and LASC will implement a current version of WordPerfect throughout their offices for word-processing, and will provide training to secretaries to upgrade their skills. APPALRED and LASC will use Windows-based word processing with the purchase of new computers, and APPALRED will utilize voice recognition software to aid a secretary who suffers from a history of carpal tunnel syndrome. WVLSLSP will use some voice recognition software, as well. All programs will develop expertise in the area of automated document assembly with the current version of WordPerfect.

**Plans to use the Internet.** APPALRED will purchase 13 Pentium II computers, including one for the library of each regional office. Each regional office will then have Internet access through local Internet providers via high-speed modems (US Robotics 56K x2 or a compatible). WVLSLSP already has this capacity in place, and will be securing Internet providers. LASC has such access in its Charleston office, and the access will be available to all advocates once networking is accomplished. Thus, all staffed offices will have e-mail communication with other legal services offices (both in and out of West Virginia), the national backup centers, and with other community organizations. The LSC programs will also use the World Wide Web for low cost legal research, or as a follow up to WestLaw to obtain copies of cases at low expense. In addition to these straightforward uses of the Internet, the programs will be able to participate in news groups and other services which provide quick access to new issues, and current thought on them, in the legal community. Finally, on-line chat rooms will be used to hold virtual conferences instead of expensive conference calling.

### III. Long Term Directions

Make community legal education and *pro se* resources available for poverty law on the World Wide Web.

Consider use of advanced telephone intake systems for handling client calls.

Develop a computerized brief and pleading bank available to legal services advocates through the World Wide Web.

Make use of voice recognition software.

Make inter-office and intra-office e-mail available from each staff member's desktop computer.

## ISSUE THREE: Increased Access to Self-Help and Prevention Information

### I. Current Status

As the number of offices and staff in the civil legal services programs in West Virginia continues to shrink, more low income people in West Virginia will have to go to court without the direct representation of an attorney. Providing some means of self-help support to those individuals can be an important aid, even though it falls short of direct representation. Provision of self-help information is by nature a low-cost activity. The cost-effectiveness can be maximized if the various providers coordinate the production and distribution of uniform, understandable self-help materials.

The most intensive form of *pro se* support is the *pro se* clinic, in which an attorney conducts a class to teach participants how to handle their own cases. Since LASC initiated divorce clinics in Kanawha County in 1987, all of the legal services programs have presented their own clinics. Some are presented on a regularly scheduled basis (*e.g.*, monthly) while others are less frequent. Some are only for initial divorces; others cover other topics such as visitation, change of custody, or contempt enforcement. Most are limited to very basic situations, while some tailor the forms and information for each participant's variations (out-of-state defendants, incarcerated defendants, *etc.*).

The Legal Aid Society of Charleston has taken the lead in obtaining funding from local foundations, the Supreme Court, and other legal services programs, in order to produce a video appropriate for use in *pro se* divorce clinics throughout the state. Funding has been secured, production is underway, and a completed product is expected in late Fall 1998.

Since 1991 a *pro se* bankruptcy clinic has been presented in Charleston, for which participants are screened and taught by *pro bono* attorneys. Administrative and support staff of LASC determine financial eligibility, schedule screening appointments, and support the logistical tasks of the clinic. *Pro bono* volunteers perform all substantive legal interviewing, review and teaching.

The Appalachian Center for Law & Public Service coordinates law student *pro bono* work on behalf of low income citizens. This program has developed extensive informational materials about family law and bankruptcy, intended primarily for the student volunteers but easily adaptable for use in legal services offices.

Many local legal services offices have prepared client educational materials and pamphlets for use in their local service areas. Some of these have been printed and shared either program-wide or statewide. There is no comprehensive listing of all the materials which have been distributed over the years, or which are available at the present time.

There are also self-help and educational materials available for low income clients from sources other than the legal services programs. The Attorney General's Consumer Protection office recently has distributed significant consumer protection and landlord-tenant information. The Young Lawyer's Division of the State Bar has written landlord-tenant materials. The Supreme Court has prepared form family law materials and required clerks' offices to make them available to members of the public. Other legal consumer material is available for a variety of federal agencies. Other sources of self-help information include the Lawyer Information Service of the State Bar; the Parent Education and Mediation Project in Martinsburg; and Victims of Crime Advocacy Projects in several counties.

Legal services programs, court systems, and other entities in many other states have created on-line or computerized sources of legal self-help information or *pro se* forms.<sup>6</sup> In the Summer of 1998 the Putnam County Prosecutor's Office established a web page which contains (among other items) substantial self-help information for victims of domestic violence,<sup>7</sup> but presently there are no other such systems specifically for West Virginians. The WV Supreme Court,<sup>8</sup> The WV State Bar,<sup>9</sup> and the WVU College of Law<sup>10</sup> have web pages, but do not provide legal self-help information at this time.

The Legal Aid Society of Charleston received state tax credits in 1997 to solicit donations for a project to create a computerized self-help, legal information system. It is to be distributed through computers placed in legal services offices and at other social service offices serving low income people (domestic violence shelters, Community Action Programs, Head Start programs, *etc.*). A public interest law student fellow worked on drafting text for such a system in the summer of 1997. However, LASC has not obtained sufficient funding to go further with this project idea.

Presently, there is little program coordination regarding preparation, maintenance, or distribution of community education materials. Each program engages in some amount of work to produce and update legal education information, sometimes building upon prior pamphlets from other programs. There is little organized effort among the providers to maintain comprehensive coverage of relevant topics, prepare updated materials on a regular schedule, or avoid duplication of effort. Indeed, different offices within the same program may each develop its own materials for local use, without particular coordination or review, or use by other offices in that program. Virtually all community legal education information produced by West Virginia organizations is written and printed, rather than existing in an alternative format.

Each program (and often, each office within each program) has developed its own *pro se* clinic materials, procedures, and methods of presentation. There is significant variation in different parts of the state concerning: the extent and type of *pro se* clinics which are available, the specificity of situations which are addressed in clinics, and the quality of materials and supporting explanations which are presented in clinics.

There are no established initiatives with other members of the legal system to assist in developing or presenting coordinated, effective self-help information. There have not been efforts to work with court personnel, staff of clerks' offices, state bar committees, or judicial officers in creating accepted and effective clinics and information distribution systems. There is occasional but irregular collaboration between the legal services programs and other social services providers (such as domestic violence shelters) to address legal information topics of concern to our shared client populations.

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<sup>6</sup> See, *e.g.*, the Pine Tree Legal Assistance web page at [www.ptla.org](http://www.ptla.org); Ohio State Legal Services Association web page at [www.iwaynet.net/~oslsa](http://www.iwaynet.net/~oslsa); Vermont court system web page with extensive pro se forms and information at [www.cit.state.vt.us/courts/index.htm](http://www.cit.state.vt.us/courts/index.htm); the Florida Supreme Court web page at [www.flcourts.org/courts/supct/book](http://www.flcourts.org/courts/supct/book); Alaska's statewide library electronic doorway at [sled.alaska.edu](http://sled.alaska.edu); Phoenix Superior Court at [www.maricopa.gov/lawlibrary/](http://www.maricopa.gov/lawlibrary/); and the Columbia (WA) Legal Services web page at [www.ior.com/~columbia](http://www.ior.com/~columbia).

<sup>7</sup> [www.state.wv.us/pcprosecute](http://www.state.wv.us/pcprosecute)

<sup>8</sup> [www.state.wv.us/wvsca](http://www.state.wv.us/wvsca)

<sup>9</sup> [www.wvbar.org](http://www.wvbar.org)

<sup>10</sup> [www.wvu.edu/~law](http://www.wvu.edu/~law)

The WV Supreme Court's Commission on the Future of the Judiciary has been examining the topic of *pro se* litigation as an issue for the court system. A preliminary report from one subcommittee of the Commission recommends that the Supreme Court:

Develop an informational database of simplified court forms for cases involving *pro se* litigants.

Aggressively use technology to better reach and serve the public.

Create a function within the Administrative Office of Courts to develop information and forms for *pro se* litigants and to apply technology to distribute and maintain that information.

Designate one or more persons to serve as *pro se* facilitators in the office of each Clerk of Courts to provide individual assistance to *pro se* litigants.<sup>11</sup>

This subcommittee report also notes the implementation in West Virginia of Bell Atlantic's "Asynchronous Transfer Mode" communication technology, which has sufficient bandwidth to allow simultaneous transmission of voice, data and video. The court system has already begun to install equipment to use this technology between regional jails and county courthouses. The Governor's "West Virginia 2001" initiative will promote further adoption of this equipment throughout state government offices. Once installed this technology will make possible electronic distribution not only of written legal self-help material (as is presently possible through the Internet), but also of audio and video presentations of legal self-help material (live or recorded). Although this common use of this technology may be some years away, it is the type of future development which would be anticipated and factored into present planning.

## II. Short Term Plans

Produce a video presenting basic *pro se* divorce information, suitable for use in any county in the state. Having the video to handle the task of delivering uniform, high-quality information should make it much easier to present clinics more often, in more locations, and with *pro bono* volunteer assistance.

Continue to present the existing clinics.

The Legal Aid Society of Charleston will continue to seek funding for implementation of a computer-based, self-help, legal information system for use throughout the state.

## III. Long Term Directions

Commit staff/personnel resources to coordinate the delivery of high-quality self-help legal information among the LSC programs. Maintain a single centralized collection center for all self-help materials, so that all offices in the state are able to draw upon those materials easily.

Work with the *Pro Bono* Advisory Committee to recruit *pro bono* volunteers to present *pro se* clinics throughout the state.

Convene a committee to coordinate *pro se* self-help information efforts in West Virginia. This entity

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<sup>11</sup> "Adequacy of Pro Se Representation and Services," Report of the Access to Justice Subcommittee of the Commission on the Future of the Judiciary (08-17-98 draft).

should include representatives of the Supreme Court Administrative Office, the Circuit and Magistrate Courts, the Circuit and Magistrate clerks, and the Family Law Master system, the WV State Bar, and the Attorney General's Office, as well as the legal services programs. Recruitment of *pro bono* volunteers to assist in writing materials and funding distribution should be a goal. Self-help materials should be made available in court clerks' offices, public libraries in every County and other public access points in addition to legal services program offices.

Work with the State Bar, the Supreme Court or another appropriate entity to enhance access by hosting an Internet web page containing self-help forms and explanatory materials. This site would be accessible to all legal services offices and to other social service providers assisting low income people with legal problems. Each county library has Internet access available to the public. Most public schools also have Internet access, and are planning to make that access available to the general public. Many social service providers reaching low income people also have Internet access.

## **ISSUE FOUR: Coordination of Legal Work and Training**

### **I. Current Status**

All West Virginia LSC funded programs have a commitment to ensuring the appropriate development and retention of skills, awareness of changes in the law, contact with client issues and adequate preparation for the effective delivery of services to our clients.

Annual statewide support staff training focuses on skills, LSC requirements, and on familiarity with the substantive law and procedures involved in legal service cases. Individual programs supplement this training with regular support staff meetings and planning sessions, training on specific computer software and training offered by seminar organizations (e.g., "How to be a Great Receptionist in a Busy Office").

For lawyers, a mandatory continuing legal education requirement exists. All three federally funded legal services programs in West Virginia participate in a regional consortium of legal services programs to provide regular, on-going, high quality training. The Committee on Regional Training ("CORT") is composed of most of the legal services programs in Ohio, Michigan and West Virginia. The programs pool resources to plan and conduct regular training. In particular, the West Virginia programs rely upon CORT for skills training of newer (up to 2 years experience) staff. Training for lawyers includes: Basic Lawyer Skills, Litigation Planning, Discovery Skills, Legal Writing, Trial Advocacy Skills, Federal Litigation, Advanced Trial Advocacy Skills, and Advanced Federal Litigation. Training for paralegals includes: Fundamental Advocacy Skills, Advanced Advocacy Skills, and Legal Writing. CORT also provides training for legal secretaries in legal services programs. After completion of these cycles of training for newer advocates, the programs encourage all staff to participate in annual on-going education and training. This includes CLE events presented by The WV State Bar, by certified private CLE providers, and by national organizations such as NLADA, the ABA, the PLI, and any others that staff and management agree are appropriate and effective.

Some programs provide annual per person base allowances (varying depending upon the staff position) for training while other programs budget a generous portion for general staff use. All programs pay the cost of training attendance, registration, travel, lodging and meals as necessary. Board members (client and attorney) from programs also are encouraged and do attend national, state and program level training.

For twenty years, all of the legal services providers in West Virginia have cooperated in presenting shared "statewide training," in which staff from all programs come together for several days to share expertise and training, and to hear presentations from outside speakers and *pro bono* volunteers. The principal outcomes of such events are recognition of common issues and coordination of advocacy. In 1997, LASC coordinated a three-day statewide Legal Services Training conference, the first one held since the 1995 budget cuts. Discussion is now underway for a late 1998 statewide training. These events will continue to be a focus of inter-program coordination, and include programs for lawyers, paralegals and support staff. As an additional resource, all programs have a strong relationship with the West Virginia University College of Law and routinely consult with faculty members on cases and questions involving clients.

There is little coordination of legal work among the three LSC funded programs. Factors contributing to this lack of coordination include the fact that there now are fewer than 30 attorneys serving West Virginia's low-income population. Their offices are as much as seven hours travel time from one another. Charleston is the only city in the state where more than three attorneys work together. Many staff from LSC funded programs feel overwhelmed with case work, and consequently external communication and collaboration has taken a back seat in recent years. The trade off between direct client work for statewide coordination has been harder to justify as resources have been cut. Low income clients constantly seek legal services; and the general lack of statewide technology has not made this situation any better. Communication challenges are among the biggest faced by the programs both in terms of statewide technology and the time/willingness to work together to share cases, strategies, resources and materials.

#### **Short Term Plans**

Continue to use statewide legal services training as a vehicle for building common skills and planning advocacy coordination by holding a statewide training conference within the next several months.

Continue to use the regional CORT training programs to build skills of new staff.

Establish a more formal link with the West Virginia State Bar's Continuing Legal Education Committee to better plan and coordinate training for legal services personnel and *pro bono* attorneys.

**Long Term Directions**

Establish a legal services work group, which includes the program directors, to coordinate specific ways for the programs to: discuss common legal issues, approaches and strategies to serve clients; develop and distribute resource materials; and monitor significant judicial, legislative and administrative developments affecting clients.

Create substantive law forums on the Internet, each monitored by a specialist in the particular subject of the forum, where questions could be posted and responses made.

## ISSUE FIVE: Coordination with the Private Bar

### I. Current Status

The Legal Aid Society of Charleston, the West Virginia Legal Services Plan and the West Virginia State Bar jointly coordinate the *Pro bono* Referral Project. This Project supports *pro bono* development throughout West Virginia, both at the state and local levels. A state level advisory committee, comprised of bar leadership, private attorneys and legal services program staff, has worked since the Project's inception in 1990 to develop, encourage and support *pro bono* work. Regular quarterly meetings over the past seven years have ensured state level discussions about participation rates, recruitment, expansion, client needs, training and problem-solving. Within the last year, this committee merged with another bar committee and its focus has become blurred and less active.

A staff member of the WVLSP and a staff member of LASC jointly manage *Pro bono* intake and referral for the three LSC funded programs in West Virginia. They oversee intake and referral within WVLSP, LASC and APPALRED, while maintaining connections with the following legal services providers: the WVU College of Law; the Appalachian Center for Law and Public Service; North Central West Virginia Legal Aid Society, the state's elder law program and hotline; Mountain State Justice, a non-LSC funded legal services program; and the Supreme Court's new county-based domestic violence *pro bono* pilot projects.

*Pro bono* attorneys are recruited to do a wide range of activities, depending on the program for which they are working and the area of the state in which they are located. For instance, LASC uses volunteer attorneys to teach clinics, provide community education, do bankruptcy screening, offer advice and brief service and take cases for full representation, particularly in areas where it is difficult for staff advocates to maintain expertise. APPALRED often co-counsels with private attorneys on non-routine legal matters of interest that affect an eligible client or client group. These co-counsel relationships have worked out well. APPALRED also uses *judicare* attorneys to provide divorce and bankruptcy case services on a reduced fee basis.

The WVLSP, which covers the largest and most rural areas of the state, uses private attorneys primarily for handling individual cases, especially in rural areas. The WVLSP also secures volunteer attorneys for "Free Days," where private lawyers staff an office or other location on a Saturday. Volunteer attorneys also staff hotlines, conduct "client day" interviews, assist with and conduct *pro se* clinics, and provide community education. One private attorney donates three days per month in a WVLSP office, handling callbacks and research. He also accepts full service cases at his private office in addition to the three donated days per month. WVLSP's *judicare* program also refers several hundred cases per year.

One of the most difficult issues to address in West Virginia is the lack of private attorneys in the rural, isolated counties, which make up a majority of the state. Most attorneys are clustered in fewer than ten small-to-medium-sized cities. The programs and the *Pro Bono* Advisory Committee have not found an effective mechanism to assist clients in counties with few practicing attorneys by recruiting attorneys from more populous portions of the state.

Statewide, the *Pro Bono* Referral Project will close over 1,300 cases this year. Private attorneys are involved in *pro bono* cases before the state Supreme Court, all levels of the state trial court system, and various federal and state administrative agencies.

Individual programs have taken the initiative to develop training and materials to support local volunteer lawyers. For instance, LASC has developed and widely distributed written manuals for use in training *pro bono* volunteers to handle family law cases. LASC has also held several well-received trainings (which qualified for mandatory CLE credits) to recruit and train volunteer attorneys in the past few years. *Pro bono* attorneys often are instructors at legal services statewide trainings, and all volunteer attorneys statewide have full opportunity to attend these trainings. The West Virginia State Bar has willingly worked with local programs to make training attractive to private attorneys by offering CLE credit at reduced or no cost.

Electronic communication between volunteer attorneys and the LSC funded programs does not exist currently. The first priority of the LSC funded programs has been to develop the capability to communicate electronically between the programs. Communicating with volunteer attorneys may be several years in the future, since many small practitioners have even less sophisticated equipment than the legal services programs.

For the last eight years, attorneys and firms making substantial contributions to PAI activities have been publicly recognized at The West Virginia State Bar annual meeting. A special *pro bono* luncheon is held for the presentation of the "Kaufman Award." Awards are presented to the attorney and the law firm providing the most volunteer hours during

the previous year. Other attorneys and firms who do *pro bono* work are recognized at that meeting and during the year through certificates, plaques and news articles. LASC has recently begun a quarterly newsletter in conjunction with the Kanawha County Bar Association to recruit and recognize attorneys in its service area. Monthly bar journal articles, an auction at the state bar's annual meeting, mail appeals, and efforts by the state bar leadership are all directed at recruitment of additional *pro bono* attorneys.

Ohio, Mercer and Kanawha counties have significant additional *pro bono* programs beyond what exists in the rest of the state. In Ohio County almost every attorney participates in a county wide *pro bono* program as part of the established legal culture. In Mercer County a Circuit Court judge worked closely with the county bar and APPALRED to make sure most parties have counsel. In Kanawha County the county bar has cooperated with LASC to assure that an attorney interviews prospective clients one morning each week. The Supreme Court of Appeals, in conjunction with one of the LSC supported programs, is helping to develop a panel of lawyers to address the temporary protective legal needs of domestic violence victims in three counties. All LSC funded programs provide malpractice coverage for volunteer and judicare attorneys. Additional efforts to support and involve attorneys have included invitations to participate in substantive law task forces, provision of writing and research assistance, co-counseling arrangements, and use of library and other legal services program resources.

#### **Short Term Plans**

Ensure that The West Virginia State Bar Committee on Legal Services for the Poor coordinates its efforts with the Symposium. The Committee should be focused on legal services related directly to the members of the Bar. The Symposium, with a broader membership base drawn from the Bar, the Judiciary and the general community, can direct its attention to the structures and delivery systems for legal services. The two groups are complementary, and their work should be supplementary, not duplicative.

Recreate a separate *Pro Bono* Advisory Committee appointed to facilitate the expansion of *pro bono* work in West Virginia. In addition, the LSC funded programs will work with the *Pro Bono* Advisory Committee and with the State Bar Annual Meeting Committee to plan the *pro bono* Awards and Activities event for the 1999 annual meeting.

Begin monthly meetings of the *pro bono* coordinators to evaluate statistical information, monitor intake and referral, discuss problem cases, plan recruitment and retention efforts, and develop pilot projects. They will produce a statewide quarterly report at the end of the first reporting quarter in December 1998.

Work with the *Pro Bono* Advisory Committee to target one county bar in each service area for *pro bono* development at the county-level in 1999.

Develop a statewide protocol for accurate, effective and realistic referrals of matters outside a program's priorities, so applicants are not given fruitless referrals.

#### **Long Term Directions**

Develop a plan to systematically involve non-attorney resources (*e.g.*, students, paralegals, other non-profit staff, business people, retired people, *etc.*) in the state's legal services delivery work.

Assist the *Pro Bono* Advisory Committee to develop a plan and schedule to target law firms and in-house counsel for greater participation in the state's *pro bono* effort.

Assist the *Pro Bono* Advisory Committee to publish and distribute the already drafted position paper on government attorney participation in *pro bono* work. Assist the committee to develop a plan and schedule for targeting office holders (*e.g.*, the Attorney General) for personal meetings and follow-up.

Work with the *Pro Bono* Advisory Committee to convene a special "judges" committee for assistance in developing a judicial education program about *pro bono* work, including how

judges, within their ethical boundaries, can recruit *pro bono* attorneys. (***E.g.***, writing letters, editorials supporting *pro bono* work, giving speeches, sponsoring and supporting judicial resolutions about *pro bono* work, participating in *pro bono* CLE seminars, ***etc.***).

Examination of a supplemental statewide *pro bono* referral system for instances when cases are outside a particular program's priorities for staff case handlers.

Assist the *Pro Bono* Advisory Committee to work with other organizations that serve legal services clients (***e.g.***, senior centers, domestic violence centers, food pantries, Headstart) to create pilot projects that serve the special intake needs of rural areas through clinics, volunteer intake, self-help centers, video or computer-based self-help information, and courthouse ***pro se*** programs.

Seek funding for annual attendance of bar leadership at national ***pro bono*** training events such as the American Bar Association's *Pro Bono* Conference.

## **ISSUE SIX: Development of Additional Resources**

### **I. Current Status**

For many years, the LSC funded programs have worked with West Virginia State Bar leaders and committees to advance legislative measures to initiate funding and support. This has been a coordinated statewide effort among the programs, and with members of the relevant State Bar committees, State Bar officers, and the State Bar Board of Governors. Through the 1980's and early 1990's the primary focus was to seek adoption of a bill implementing a civil filing fee add-on dedicated for civil legal services. Ultimately these efforts failed when the concept of increased civil filing fees was used instead to provide a funding stream mainly for construction of regional jails. New efforts were made in the 1996 legislative session to promote a civil filing fee add-on, which were not successful. In 1997 and 1998 the primary legislative strategy was to seek a direct state appropriation. Each of those years a bill made it through several committees, but was never fully adopted by both houses.

Federal funds channeled to West Virginia pursuant to the Victims of Crime Act (VOCA) and the Violence Against Women Act (VAWA) include categories of legal services which could be provided by the legal services programs. The WV Criminal Justice Highway Safety Division administers these funds, but through 1998 had not chosen to allocate funds to any civil legal assistance provider. The three LSC funded legal services programs joined with the WV Coalition Against Domestic Violence (WVCADV) to submit a combined proposal for 1999 VAWA funding for statewide *pro bono* coordinators for domestic violence protective order advocacy. A decision on that proposal has not been made as of this writing. In addition, each of the LSC funded programs submitted regional proposals for VAWA funding to address domestic violence in their areas. Again, decisions on those proposals have not been made at this time.

The Appalachian Center for Law and Public Service at the WVU College of Law operates a student *pro bono* assistance program. It is partly supported by funds from the IOLTA program, the law school, and the WVLSP. The Fund for Law in the Public Interest in Morgantown supports placement of summer law student fellows from the WVU College of Law with the civil legal services programs and with a variety of other public interest legal organizations. Funding for the fellows comes from IOLTA, as well as from significant private fundraising activities (auctions, direct mail, etc) conducted by students participating in the "Public Interest Advocates" organization at the College of Law.

There has been little statewide coordination by the LSC funded programs in private fundraising or grant writing. Funding sources such as the United Way, local foundations, and local/legal community fundraising have been handled on a local basis by the legal services programs. As an example, the LSC funded programs receive United Way funding in only a few towns in West Virginia, and LASC has been turned down for such funding in Charleston.

One of the LSC funded programs has a staff position with significant responsibility for grant writing and resource development. A second program, in the past two years, has developed an explicit fundraising plan, involving two fundraising events per year and coordinated direct mail campaigns. Each program makes its own independent efforts to secure public interest attorney funding, through NAPIL, Skadden-Arps Foundation, and similar sources. There has been at least

one NAPIL or Skadden-Arps Fellow in West Virginia almost every year since the early 1990's.

## **II. Short Term Plans**

Continue to coordinate with the State Bar in preparation for the 1999 legislative session, again to promote a bill for a direct state appropriation. The report from the Supreme Court's Commission on the Future of the Judiciary (due in December 1998), which seems likely to urge additional funding for civil legal services for the poor, should enhance efforts in the 1999 legislature.

Identify funding for a position to coordinate development of financial resources.

Develop a common, coordinated strategy for obtaining public and private grant funding for legal assistance. Examples of funding sources for this approach would include United Way agencies across the state, Victims of Crime grants, Violence Against Women Act funding, and Neighborhood Investment Act projects.

Develop a common, coordinated statewide strategy for fundraising events and campaigns, from the legal community and from contributors outside the legal community. Examples might include coordinated direct mail drives with related publicity, a single statewide fundraising event each year, or a series of smaller regional fundraising events covering the major populated areas of the state.

## **III. Long Term Directions**

Create a vehicle for coordinated fundraising through events, campaigns, and grant proposals.

Pursue legislative measures to provide financial support for civil legal assistance efforts. Possible measures include:

- State appropriation of funding to support civil legal assistance efforts;

- A fee for filing civil responses, with proceeds dedicated to support civil legal assistance efforts;

- Dedication of abandoned assets from lawyer trust accounts and unclaimed court bonds for support of civil legal assistance efforts; and/or

- An increase in the civil filing fee, with proceeds dedicated to support of civil legal assistance efforts.

## **ISSUE SEVEN: Legal Services Delivery System Configuration**

### **I. Current Status**

Presently there exist three LSC funded programs in the state of West Virginia. The Legal Aid Society of Charleston has a service area which includes the most populous county in the state, and three small contiguous counties. APPALRED serves eight rural counties in southern West Virginia which make up what is generally referred to as the southern coal fields. The WVLSP serves the 43 remaining northern and eastern counties in the state. All three programs have their central offices in Charleston. For APPALRED and the WVLSP, the reasons for locating in Charleston are both historical and geographical. Both programs originally were statewide programs, and continued as such until the LSC assigned particular counties to particular programs in the late 1970's. In addition, despite not being in the service areas of those two programs, Charleston is the most central location for transportation purposes.

In the last three years, the Legal Services Symposium has helped develop and support efforts to create a stronger and more effective delivery structure in West Virginia. The Symposium supported a consolidation of L.S.C. funded activities from four programs to three in 1996. The Symposium is aware of and supports current discussions between APPALRED and LASC regarding a merger. Key staff and board leaders of APPALRED and LASC have agreed to recommend merger of the two programs to their respective boards of directors. The two programs serve contiguous geographic areas, with many common economic and social characteristics. Both receive moderate amounts of LSC funding; and both receive other support as well, primarily IOLTA funds. LASC also has state funded contracts to provide nursing home Ombuds and institutional advocacy services throughout the state.

The three LSC funded programs, plus the North Central West Virginia Legal Aid Society, separately provide some telephone advice, counsel, information and intake. Some other providers also include a low level of telephone response to those seeking assistance. None of these systems are integrated with a pro se information distribution system.

There is only one non-LSC funded organization providing general legal assistance specifically for low income persons in the state. This program directs most of its resources to cases not eligible for LSC funded support, particularly those with a major impact on large groups of clients. The assistance provided is significant and important.

No firm, group or organization now provides widely available access to the legal system, or even information, except the LSC funded programs which are limited by the various LSC regulations on client eligibility, reporting and subject restrictions. A large number of needs of low income people remain unmet because of limited funding for non-LSC programs and restrictions on LSC programs.

Examination of the delivery system configuration is one of the high priorities of The Legal Services Symposium. Members of statewide social service providers and statewide law firms are being asked to participate with Symposium members in an evaluation of the current system configuration. Recommendations and conclusions are expected to be submitted no later than November or December 1999.

## **II. Short Term Plans**

Consider a coordinated telephone advice and intake system. Clients contacting a centralized access system would receive brief information and advice, some appropriate prepared materials, or access to a defined response from a local legal services provider. Such a centralized intake system could refer emergencies directly to an accessible resource.

Coordinate client referrals and exchange of information between the LSC supported and the non-LSC funded programs. Better coordination should result in a clearer understanding of the statewide legal services system's mission and purposes, and what it can accomplish on behalf of the low income population.

## **III. Long Term Directions**

Consider the roles of LSC and non-LSC funded programs in the overall delivery scheme in West Virginia.

Collaborate on development of high-tech resources.

Collaborate on a telephone response system which could lead to further and even more effective coordinated efforts on behalf of clients.

Collaborate with the State Bar to take a leadership role in creating innovation and development of new approaches to legal services.

Consider developing state substantive legal support capacities (resources and expertise) focused on responding to the needs of local providers.

Examine whether consolidation of some or all current legal assistance programs would promote higher quality or higher quantity of legal services for low income persons in West Virginia.

