



MICHIGAN
STATE PLANNING REPORT

IN RESPONSE TO
LSC PROGRAM LETTERS
98-01 AND 98-06

Submitted Through
The Collaborative Efforts Of

The State Bar of Michigan
The Michigan State Bar Foundation
The Legal Services Association of Michigan

September 30, 1998



September 30, 1998

Lou Castro
Office of Program Operations
Legal Services Corporation
750 First St., NE, 10th Fl.
Washington, D.C. 20002-4250

Re: Michigan State Planning Report

Dear Ms. Castro:

We are submitting our Michigan State Planning Report as prepared in response to LSC Program Letter 98-01, along with several attachments as noted in the Report. The Report follows the format described in Program Letter 98-06 and the State Planning Considerations document of July, 1998. It was prepared by the same three planning leaders that have overseen Michigan's process for the last several years - The State Bar of Michigan, Michigan State Bar Foundation and Legal Services Association of Michigan. Many of the projects described in the Report generated documents and reports that are available for review as well.

This Report was prepared after consideration of ideas and information shared with us by LSC representatives over the last many months. Let us take this opportunity to thank LSC, and especially Bristow Hardin and Jim Bamberger, for the time and thought given to understanding and discussing Michigan's planning process with us. A good summary of the most recent discussions between LSC and Michigan planning representatives is contained in Jim's August 11, 1998 memorandum to Bob Gross.

September 30, 1998
Ms. Lou Castro
Page Two

Many of the answers to the seven questions presented by LSC were taken directly from existing Michigan documents produced through the vigorous planning work that has been underway since The Michigan Plan was produced three years ago. In addition, we have generated new information to describe the most recent developments in the areas of service delivery (including core capacities), hotline projects and technology. Michigan's Development Campaign, described in the Report, is perhaps the most important information we can point to your attention in the Report. It demonstrates resource development as a precedent in our state work; it also demonstrates the three year commitment Michigan planners have made to making sure the campaign is conducted effectively.

The strength and integrity of the planning process and the real delivery developments that are occurring in Michigan are demonstrated in the Report. It also demonstrates the activities that Michigan's planners have chosen to pursue through very comprehensive and long range planning. Those priorities were reached through the careful thought the planners have given to all the issues affecting low income people with access to justice issues. Those issues go beyond the scope of issues defined by LSC in its state planning directives, and our planning priorities reflect that broader scope.

We remain confident that our planning process is the most rational way to proceed and that the process will lead us to whatever changes - including configuration - that may be necessary to promote the highest and best use of all available resources. Because we have selected our priorities and are proceeding meticulously through a long range plan, it would be especially important that the LSC funding cycle be extended in Michigan for the longest possible time - three years - so that the process is not artificially interrupted to meet the general concerns of LSC about the strength of state planning nationwide.

We appreciate whatever support LSC can provide to us in our process. We have made specific suggestions in our report about changes in current LSC restrictions that would help us deliver more effective legal services while respecting the basic concerns of Congress. We will continue to work with you in whatever ways necessary to ensure the effective delivery of services to low income people with access to justice issues; we look forward to your support of our work here.

September 30, 1998
Ms. Lou Castro
Page Three

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Sincerely,

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Michigan State Planning Report

Table of Contents

1.	MICHIGAN STATE PLANNING REPORT NARRATIVE	
A.	Description of the State Planning Process	
1.	Introduction	1
2.	Access to Justice for All Task Force	1
3.	Integration and Merger Committee	1
4.	State Bar of Michigan Long Range Plan	2
5.	Service Delivery Subcommittee	3
6.	The Hotline Study Group	3
7.	The Work Groups of the Service Delivery Subcommittee	3
8.	The Service Delivery Subcommittee Survey	5
9.	Service Delivery Subcommittee Next Steps	6
10.	The Response to Program Letters 98-1 & 98-6	6
B.	The LSC 98-1 Questions	
1.	Question 1: Intake, Advice and Referral	8
2.	Question 2: Technology	9
3.	Question 3: Access to Courts, Self-help and Preventative Education	11
4.	Question 4: Coordination of Legal work, Training, Information and Expert Assistance	12
A.	Support	12
B.	Training	13

5.	Question 5: Private Attorney Involvement	14
6.	Question 6: Resource Development	15
	A. Federal Funding Advocacy	15
	B. State Filing Fees	16
	C. IOLTA Funding	16
	D. The Task Force Resource Development Subcommittee and the State Bar of Michigan Development Campaign	16
7.	Question 7: System Configuration	18
C.	Other Michigan Initiatives	
1.	Efforts to Assure a Full Range of Advocacy	19
	A. Michigan's Delivery System Should Provide Low Income Persons with Access to a Full Range of Legal Services	19
2.	Overview of Diversification Developments	19
3.	Creation of New Entities	20
	A. The Michigan Poverty Law Program	20
	B. Center for Civil Justice	20
	C. Michigan Legal Services	20
	D. Michigan Migrant Legal Assistance Project, Inc.	20
4.	Coordinating Advocacy Between LSC and non-LSC Organizations	20
5.	LSC Restrictions on Advocacy	21
6.	Quality Assurance	24
D.	Conclusion	25
E.	List of Acronyms	26
F.	List of Attachments	27
2.	ATTACHMENTS FOR MICHIGAN STATE PLANNING REPORT	

**MICHIGAN STATE PLANNING REPORT
RESPONSE TO LEGAL SERVICES CORPORATION (LSC)
PROGRAM LETTERS 98-1 AND 98-6**

A. BRIEFLY DESCRIBE THE STATE PLANNING PROCESS AND PARTICIPANTS.

1. Introduction

For many years, Michigan has benefitted from federal funding for civil legal services for the poor. In anticipation of substantial cuts in those funds, Michigan produced The Michigan Plan: A State-Based Plan for the Delivery of Civil Legal Services to the Poor (Plan) in October of 1995 (Attachment A). Led by the collaborative efforts of the State Bar of Michigan (SBM), the Michigan State Bar Foundation (MSBF) and the Legal Services Association of Michigan (LSAM), the Plan was researched by nine working groups composed of more than 80 people with a wide range of experience and roles in the delivery system. This effort resulted in 57 recommendations to ensure a comprehensive, integrated system of legal services delivery. A central recommendation in the Plan was that the SBM:

"immediately establish [a] Task Force on Legal Services to address how the State Bar can work towards an improved future for the delivery of civil legal services to Michigan's poor." Plan at p 12.

In November of 1995, the SBM created the Access to Justice For All Task Force (TF).

2. Access to Justice For All Task Force

The TF established in 1995 included in its membership, among others: the Executive Director of the Bar and of the MSBF, the Chair of the Board of the MSBF, the President and President Elect of the SBM, and the chairs of five standing SBM committees with a direct interest in legal services delivery issues (Attachment B). The purpose of the TF is "to promote the effective delivery of high quality legal services to all Michigan citizens, especially low income people."

3. Integration and Merger Committee Report

One of the first initiatives of the TF, along with the MSBF and LSAM, was the formation of the Integration and Merger Committee (IMC) after a successful statewide conference on this topic held in March of 1996. The IMC developed a report and recommendations (Attachment C) addressing administrative and operational factors in April of 1998, which has become the basis for many individual program and statewide initiatives. Included within the IMC Report was the conclusion

that integration or merger related issues regarding service delivery topics should be examined in the context of the Service Delivery Subcommittee (see section (5), *infra*) in order to ensure a client centered and values driven process and result. The IMC addressed the topics of merger and integration from an administrative point of view -- i.e., would merger or greater integration produce significant efficiencies or program improvements in a number of administrative areas? The Service Delivery Subcommittee is addressing these same topics from a client service point of view -- i.e., if we design a system from the perspectives of client access and delivery of services, what implications does this have for program collaboration or program configuration?

4. The SBM Long Range Plan

In 1996, the SBM Board of Commissioners undertook a long range planning process for the Bar. The SBM's Long Range Planning Committee, formed ten "goal groups" involving over 60 bar members, to set substantive goals for the SBM and to prioritize its work areas. One of the Goal Groups focused exclusively on "Access to Justice for All." The report of that Goal Group was incorporated into the SBM's final long range plan and was adopted by its Board of Commissioners in July of 1997. The SBM Goal Group Report (GGR) contains seven objectives and numerous strategies across a wide range of Access to Justice issues (Attachment D). These were developed with the content of the Plan in mind and with the input of the Access to Justice Department (ATJ) of the State Bar of Michigan, and formed the basis for the SBM's allocation of additional resources and staffing for ATJ.

Between July of 1997 (the SBM Commissioner's approval of the SBM's long term planning goals) and March of 1998 (the publication of the IMC Report) the Michigan planners and the TF focused their efforts on four initiatives.

The broadest of these was the TF's Service Delivery Subcommittee process (see section (A)(5) through (A)(9), *infra*). This process attempts to harmonize the SBM's long term planning goals in the area of access to justice with the Plan; in other words, it attempts to translate the SBM's broad planning goals into specific action steps to significantly improve access to justice for all.

A second visionary initiative was the Bar Development Campaign (see section (B)(6)(D), *infra*), a campaign to raise over \$200 million for the delivery of legal services to the poor by the year 2020. The SBM has committed \$750,000 to staffing this Campaign. This initiative was developed in the summer of 1997; its funding was approved by the Bar Commissioners in September of 1997; staff began work on this initiative in October of 1997.

Third, there was a great deal of work group activity necessary to finalize the IMC Report (see section (A)(3), *infra*).

Fourth, the ATJ Department began to hire additional staff to support the areas of service delivery, technology, pro bono and special projects.

During this time, progress continued on other important planning goals -- including the start up on a new state support system (see section (B)(4), *infra*); the development of the MSBF's peer

review/quality improvement program (see section (C)(6), *infra*); and continued expansion of the Computer Committee's (CC) technology initiatives (see section (B)(2), *infra*).

5. The Service Delivery Subcommittee

The TF itself has four standing subcommittees based upon the ideas brought out in the Plan and the Bar GGR on Access to Justice. These four are:

- \$ service delivery
- \$ resource development
- \$ pro bono
- \$ technology

The Service Delivery Subcommittee of the TF (SDS) is chaired by a legal services program director who also sits on the TF. The chair works with a steering committee of five which includes representatives of the MSBF, the SBM and other non-LSC funded legal aid providers.

The purpose of the SDS is to identify and study service issues/needs, to make recommendations and to facilitate implementation of actions toward ensuring a comprehensive and integrated system that provides a full range of legal services to citizens in every corner of the state with priority given to the needs of the low income. The SDS focuses solely on delivery issues and recognizes that many innovations developed for low-income needs will benefit others, including the moderate income. Structurally, the SDS reports to the TF and will help guide SBM leadership, policy and practices regarding access to justice issues.

6. The Hotline Study Group

In late 1996, as one of its first actions, the SDS appointed a subcommittee, the Hotline Study Group (HSG), to review hotline models. The HSG recommended that the MSBF consider funding various models of hotlines within the state as part of a 6-month pilot project. The MSBF awarded three small grants pursuant to this proposal. The three-hotline pilot projects have now operated for the target period and recently submitted written grantee evaluation reports (Attachment E). Additionally the MSBF is setting up site visits to continue the evaluation. Once the evaluation process is complete, the HSG will report its findings to the SDS work group B (described below), for incorporation into its report on legal hotlines and technological innovations for service delivery.

7. The Work Groups of the Service Delivery Subcommittee

In order to carry out the charge of the TF, the SDS designated six work groups to research and draft specific implementation steps with respect to the delivery of legal services. The SDS plans to bring a full report of its implementation steps for service delivery to the TF early in 1999 (Attachment F).

The six work groups are composed of a diverse group of lawyers and human service providers. Representatives from agencies such as those that assist the elder population, individuals with disabilities, and other special populations have joined these work groups along with legal aid and private attorneys. There are approximately 60 current members.

The Plan and GGR outline a range of service delivery issues for these six work groups to explore. The SDS decided that the best way to thoroughly examine and research these issues would be to create work groups that focus on specific clusters of issues. Although the six work groups are organized by a GGR objective, the SDS work specifically incorporates the content of both the Plan and GGR. These objectives are:

- I. CORE CAPACITIES OF A STATEWIDE LEGAL SERVICES SYSTEM - Work to guide the SDS efforts and assure that all of the SBM's efforts to expand and improve access to justice are developed and implemented in an integrated, coordinated fashion. (work group A)
- II. INTEGRATED DELIVERY SYSTEM - Work to see that subsidized (free or reduced fee) civil legal services are provided to those in greatest need in a high quality, comprehensive, and integrated delivery system. (work group B)
- III. PRO BONO INVOLVEMENT - Work to maximize the amount of civil legal services provided *pro bono* to those in need. (work group C)
- IV. ALTERNATIVE DISPUTE RESOLUTION - Work to promote alternative dispute resolution availability, where appropriate, for all. (work group E)
- V. PRO SE AND NON-LAWYER ASSISTANCE - Work to ensure that legal self-help and law-related assistance by non-lawyers is maximized within the bounds of the concerns of the profession and of the public. (work group F)
- VI. COMMUNITY LEGAL EDUCATION AND REFERRAL - Work to ensure that options for obtaining information and appropriate referrals are available to all facing a legal situation. (work group G)

The first work group to report has been that group charged with setting out the core capacities which Michigan sees as essential to its legal services delivery plan. These can be described as the fundamental basics to which our delivery system should adhere. Input on drafts of the core capacities statements was collected from a range of state and national providers. All other work groups are charged with forming recommendations which reflect these basic attributes. This work group's report *Core Capacities of an Effective Statewide System for Delivering Legal Services to Low-Income Clients in Michigan* is included here as Attachment G.

The second work group is charged with assuring that high quality services will be provided in a comprehensive, integrated delivery system. This group's recommendations will have the greatest implications for the configuration questions reflected in Question #7 in Program Letter 98-1 (see discussion at (B)(7), *infra*). This work group will take up these issues in detail after reports from other work groups provide more detail about the basic requirements of a statewide system and after results of the SDS Survey (described below) assessing all advocacy resources in the state are available.

The work groups, each led by a facilitator, meet regularly to discuss delivery models for legal services that have been successfully utilized in other parts of the country, as well as new and innovative solutions. The ATJ staff provides support and guidance to the work groups. The work groups are now drafting preliminary reports based on the models and solutions they believe will work in Michigan and the steps which are required to implement these recommendations. After incorporating the SDS Survey results (discussed below), the work groups will each produce a final report. These reports will then be reviewed by the stakeholders (e.g. client groups, the judiciary, human service providers) for comment.

All work group reports will be compiled into a single report by the SDS steering committee. After approval by the work groups and the full SDS, the report will be presented to the TF as a plan for maintaining and supplementing the full range of legal services across the state.

8. The SDS Survey

In the course of their research, the work groups decided that they must have accurate information about current legal assistance resources available throughout the state in order to make successful recommendations. Given the amount and breadth of data required, and the fact that all volunteers have limited time in which to collect this data, the SDS steering committee decided to compile all of these questions into one comprehensive survey and to send it to the range of entities that provide legal assistance in Michigan.

The survey has three primary purposes: 1) to assist the work groups in determining the quantity and quality of all of the types of legal assistance available to low and moderate income legal consumers in Michigan; 2) to create a statewide access to justice network through encouraging and developing information on and communications/referrals between all of the providers in the state; and 3) to create an up datable database which would list programs and services by category.

In order to capture a realistic view of the resources actually available in Michigan, "legal assistance" has been defined very broadly in the survey. It includes any method by which a low or moderate-income legal consumer receives information about or assistance with a legal problem. Such assistance ranges from legal education brochures informing the consumer about legal rights and remedies to full representation by an attorney in court. For the purposes of this survey, a lawyer, paralegal, court clerk, government worker, social worker, or other provider can provide legal assistance, as long as the consumer uses it to resolve or prevent a legal problem. As a result, the survey will be sent to almost 2,000 recipients, including courts, legal services programs, and ten different categories of human services agencies.

The SDS is utilizing an outside advisor to guide the survey process. Specifically, the advisor, who has many years of experience in examining the legal services delivery system in depth in other states, has been asked to: 1) objectively design the survey in such a way as to obtain quantitative and qualitative information about current legal assistance; 2) advise the SDS work groups how best to incorporate this information into their recommended implementation steps; and, 3) create a database for use as a referral resource. The survey questions are currently being drafted,

widely circulated for comment and edited. These surveys will be mailed in Autumn of 1998, so that the responses can be returned in sufficient time to incorporate the survey data into the SDS report. A copy of the survey, which will be sent to members of the state judiciary, is attached to this report as Attachment H.

It is the intention of the SDS to integrate the recommendations of the work groups and the HSG into a detailed implementation plan for a comprehensive delivery system that has neither gaps nor duplication of efforts.

9. SDS Next Steps

The SDS anticipates that its part in the state planning process will proceed in the following manner. Dates and deadlines may change, if necessary, to ensure a quality work product.

- \$ The data from the SDS survey and from the hotline evaluations will be incorporated into the work group reports in the Autumn of 1998.
- \$ The work group reports will be submitted to the SDS for review in late 1998 or early 1999.
- \$ The work group reports will be finalized and synthesized into a single report by early 1999. The SDS will meet to review, accept or reject the report for submission to the TF.
- \$ Once formally approved by the SDS, the SDS plans to submit its report to the TF, hopefully at its February 1999 meeting.
- \$ Implementation steps will be prioritized during the Spring 1999 and implementation may begin at that time.

At this point, the SDS cannot predict any outcomes other than the fact that it will present to the TF a recommendation on what is needed to implement a quality legal service delivery system for all of Michigan's low-income residents. The SDS has not predetermined the results; but it knows the process needed to arrive there.

10. The Response to Program Letters 98-1 and 98-6

At the time that LSC issued Program Letter 98-1, Michigan's IMC was completing its report. Section III of the IMC Report summarized the state's efforts in the planning process from 1995 through early 1998; it discussed many areas where the planning process had made significant progress since 1995. The IMC Report fully addressed many of the issues raised by LSC in Program Letter 98-1 and other issues that had been identified as priorities by the Michigan planners. A copy of the IMC Report was provided to LSC in March of 1998.

In response to Program Letter 98-1, the SBM, the MSBF, and LSAM, appointed a committee to prepare a state planning report. This Committee met with LSC Program Officer Bristow Hardin in March of 1998 and with LSC Program Officer James Bamberger in August of 1998. In general,

the LSC representatives complimented the Michigan process and indicated that the IMC Report adequately addressed many of LSC's questions.

To a great extent, this Michigan's 98-1 report tracks the IMC Report. Indeed, sections of the IMC Report are essentially reproduced within this report. There are, however, several areas where the Michigan process has continued to make progress since March of 1998-- e.g., in the Development Campaign, the SDS of the TF, in consolidating state planning in the technology area, etc. The overall IMC Report has been updated; substantial new information has been added in these areas.

In the attachment to Program Letter 98-6 entitled "Instructions for State Planning Reports", states are asked to "assess...the current approach"; to "establish goals"; and to "determine the major steps and a timetable necessary to achieve those goals". Because the IMC Report does not directly address these questions in every area, we will briefly discuss them in this section of the report.

In general, Michigan has adopted a statewide delivery approach on all planning issues, including those identified by LSC and a series of broader issues identified by the organizations jointly responsible for planning in Michigan-- the SBM, the MSBF, and LSAM. This statewide approach has included the active support and involvement of all of Michigan's twelve local LSC-funded providers.

In several areas, very specific goals and timetables have been set out. For example, the Development Campaign was initially funded by the SBM for a three-year period running through October of 2001; it is expected to be strong enough at that time to support itself as it continues progress towards its long-term goal of a \$200 million endowment by 2020. As a second example, the MSBF expects to initiate its program evaluation program in 1998 and to complete its initial round of program visits and reports by the end of 2001.

However, the overall Michigan process is a values driven process which arrives at goals and outcomes as appropriate. We are committed to an open and inclusive process and to moving forward by consensus whenever possible. The planning initiatives currently undertaken, such as the SDS planning process, have clear time lines and clear responsibilities for studying issues and arriving at recommendations, but do not start out with pre-determined goals. Final reports from the SDS are due to the TF early in 1999.

We also note that the Michigan planning process is broader in scope than the process mandated by LSC through Program Letter 98-1 in several respects.

First, the Michigan process includes a broader provider community than just the LSC programs. The Michigan process, in its overall planning, has included well over 100 persons representing every significant aspect of the state's overall Justice system-- from courts, to private lawyers, to local bar associations, to law schools, to client organizations, to providers, etc. In planning for its direct delivery system, the Michigan process includes LSC-funded programs, non-LSC programs, pro bono components, and others.

Second, the Michigan process contemplates a range of services beyond traditional legal providers to include a number of non-legal community based advocacy organizations. Through the SDS

process, we expect to create a database of over 2,000 organizations providing advocacy services to low income persons in Michigan. These include local domestic violence shelters and disability rights organizations. This database will permit us to communicate with, share information about, and connect clients to all the low-income advocacy resources in the state.

Third, the overall goal of the Michigan process is to assure that a full range of advocacy services exists within the state system, including services that are restricted from using LSC funds. Note that the statements of *ACore Capacities of An Effective Statewide System for Delivering Civil Legal Services to Low-Income Clients in Michigan* developed for the SDS process emphasize a full range of services.

In addition to responding to LSC's seven questions, we have addressed additional issues in this report that we felt were necessary for a full understanding of the Michigan process. These three issues are the SDS planning process (discussed in section (A)(5) through (A)(9) and which cuts across several of the LSC question areas); the MSBF's Program Evaluation and Quality Improvement initiative (section (C)(6), *infra*); and the state planners' efforts to assure that a full diverse range of advocacy remains available to all Michigan citizens (section (C)(1), *infra*).

While the Michigan process is broader in scope than the LSC process, we appreciate LSC's leadership and vision in initiating the state planning processes. However, we request that LSC respect the scope and inclusiveness of the Michigan process and not take any action which conflicts with the broader goals of the Michigan process.

B. THE LSC QUESTIONS

1. LSC 98-1 Question 1: 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?

In late 1996 as one of its first actions, the SDS appointed a subcommittee, the Hotline Study Group (HSG), to review hotline models. The HSG recommended that the MSBF consider funding various models of hotlines within the state as part of a 6-month pilot project. The MSBF awarded three small grants pursuant to this proposal. The three-hotline pilot projects have now operated for the target period and recently submitted written grantee evaluation reports (Attachment E). Additionally the MSBF is setting up site visits to continue the evaluation. Once the evaluation process is complete, the HSG will report its findings to the SDS work group B (described above), for incorporation into its report on legal hotlines and technological innovations for service delivery. Additionally, the SDS work group will address client access, efficient delivery and high quality legal assistance (see discussion at section (A)(7), *supra*). See below section (C)(6), *infra*, regarding quality assurance.

2. LSC 98-1 Question 2: 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?

In 1993, LSAM and MSBF established a CC to assess technology needs in legal services programs and to begin to address these needs. A 1993 survey of needs identified two basic technology needs, and over the course of time, a third need has emerged:

1. A need for intra- and inter- program communication and resource sharing among legal services programs and other constituents;
2. A need for effective case management systems to assist legal services staff and pro bono attorneys in collecting, managing, utilizing, and reporting on client and case information;
3. A need for developing a telecommunications and information infrastructure to extend the reach of legal practitioners to those in need of legal assistance.

An underlying assumption of these need areas is that every legal services program will need to acquire the computer technology necessary to support the statewide development of technology in addition to the objectives that the program intends to implement.

Prior to the 1995 State Planning Process, the CC obtained a MSBF grant to implement an e-mail pilot project in 1994. A statewide expansion of the e-mail system occurred in June of 1995.

The 1995 State Planning Process provided an opportunity to develop a comprehensive approach to technology development in legal services in Michigan. This process resulted in eleven technology recommendations. Legal services programs have cooperated extensively in developing projects to implement these recommendations. At the time of this writing, all but two of these recommendations have been implemented or are in the process of implementation, at least on a pilot basis.

One of the critical factors in technology implementation has been the need to remain flexible to be responsive to technological innovations. The structure of the CC, which has developed under the Plan, facilitates this in a very effective manner. The CC is involved in implementing projects with the legal services programs. It makes recommendations to the Technology Subcommittee of the TF, which adopts broad policy guidelines which then guide the CC and the legal services programs in developing and implementing projects to address the needs. The third need area noted at the beginning of this section (telecommunications infrastructure) was a result of this process in 1997.

As technology has changed, the Technology Subcommittee and the CC have made the necessary adjustments to utilize current technology where beneficial. For example, the entire GroupWise e-mail network has now been connected to the Internet (giving each user an Internet e-mail address for communication with those outside the statewide e-mail system). A fax gateway

(providing the ability to send faxes from e-mail) can also be implemented in each program with a small addition to the technology now in place.

In addition, the searchable brief and pleadings bank, which began as WordPerfect documents utilizing the WordPerfect index/search engine, is now linked to a Folio search engine on the Michigan Poverty Law Program Internet web page (www.law.umich.edu/mplp). Many legal services programs are replacing major elements of their paper library with CD-ROM library subscriptions. Finally, most programs are using the Internet to access HandsNet and a number of other on-line legal resources, rather than using the direct dial-up to HandsNet.

Moreover, pilot projects are now in place for the second and third major need areas. One project involves the testing of three case management software systems with integrated timekeeping and document systems. We hope to identify a statewide system which will permit updates from satellite offices through the e-mail system. The system is also seen as a means of electronically transferring case information and documents to pro bono attorneys and of facilitating other program referrals.

A second project is a hotline pilot project using telecommunications technology, with some offices now looking at expanding beyond voice contact to video conferencing capability. Three of the four hotline projects are also using automated call distribution systems to manage the volume of calls and keep clients occupied with information while they wait to speak to an attorney. The same vendor, who has an understanding of the needs of legal services offices, supplied all these systems.

In addition to these projects, the third need is being addressed through a collaborative effort to develop an integrated telecommunications network, the Michigan Legal Aid Network (MLAN), to improve the ability of legal services programs to reach out to those in need. This network will establish legal points of presence in community centers, senior centers, and other organizations, which serve the needs of the poor. The MLAN website is located at www.mlan.net.

Technology development and implementation in legal services in Michigan has addressed the following question: How can technology be used to improve the capacity to serve eligible clients in Michigan? Each project addresses either improvements in service delivery support systems or improvements in the interaction with and service to eligible clients. The technology needs were identified through an initial survey of all legal services programs in Michigan. The CC and the Technology Subcommittee of the TF address on-going needs.

Most importantly, technology planning and implementation in Michigan has involved key constituents: the legal services programs, the MSBF, the state support entity and the SBM. Both the Michigan Poverty Law Program (state support entity) and the SBM have become integrally involved with LSAM and the MSBF in technology development and implementation in Michigan, and both now provide technology staff positions. Copies of over thirty documents relating to the collaborative development of technology in legal services in Michigan (including the technology section of the Plan) are available on the MSBF's website at www.msbf.org.

The CC has continued to work since the March 1998 publication of the IMC Report. At this time, four different pilot projects are set for evaluation by spring of 1999: 1) statewide email project; 2) case management project; 3) the MLAN; and 4) the Internet access pilot.

During the summer of 1998, the CC studied the lessons learned to date from the pilot projects and designed work plans focusing on the tasks required to complete the projects and to conduct meaningful evaluation of each. These work plans are attached to this report (Attachment I). In addition, a status report, dated August 31, 1998, on Michigan's technology efforts is attached, (Attachment J.) An overall work plan for the committee itself is also included in Attachment I; this contains the estimated (full time equivalent) assignments for the staff available in Michigan to support technology. Staff includes MSBF personnel, MPLP (state support) personnel and a new position (recently filled) at the Bar to assist with technology in legal services. The CC leaders have been involved in interviews for the ATJ technology position.

To summarize the current statewide plans for technology, the CC also produced *The Michigan Technology Plan* (Attachment K). Also, the CC developed and adopted Technology Guidelines (Attachment K) for use by individual programs. These guidelines and a sample program plan and office technology policy were sent to providers at the same time as the MSBF's 1999 grant application was distributed. The grant application contains a new section (Attachment L) tracking these guidelines, which asks questions about each program's current and planned technology efforts and budgeting for those efforts.

3. LSC 98-1 Question 3: Access to the Courts, Self-help and Preventative 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 preventative legal education and advice, and enhance self-help opportunities for low-income persons?

The major barrier to access to justice to the Michigan low income residents is both the lack of resources available to meet the demands and the need to better use and develop the resources that we do have. In Michigan, there is one lawyer for every 340 residents, but there is only one civil legal aid lawyer for every 9,000 low-income people in the state.

The SDS work includes investigating and reporting on major barriers to access to justice within Michigan. The Michigan Core Capacities guiding the SDS work contains this statement: *Clients are not prevented from learning about and receiving legal services by barriers such as: disabilities, institutionalization, geographical isolation, and language...@* Specifically, the SDS is looking at and will make recommendations on how to improve access through a variety of means, some of which may include community legal education, development of self-help materials, unbundling of legal assistance, expansion of pro bono, etc. Although all of these delivery methods, and more, are in use throughout the state, it has been determined that a more coordinated, statewide approach will increase access.

An example of the manner in which SDS work groups will address these issues is SDS work group F which is examining pro se litigation, primarily with regard to the population of low income legal consumers. Some of the barriers to successful pro se representation it has identified include: 1) that low income litigants may not have the resources, language or educational background to properly complete the forms, 2) many litigants do not have sufficient knowledge of the court

system to utilize it successfully, 3) providing adequate support for pro se litigants is time consuming and many courts do not have the resources to successfully address this, 4) the current system for the distribution of pro se support materials to legal services offices and other client points of access is diffuse, and thus very difficult to maintain and update, and 5) some courts are very unwelcoming to pro se litigants. The identification of these potential barriers will assist the work group in developing effective recommendations regarding pro se. The work group has researched models for delivery of support to pro se litigants and has reported on recommendations for implementation steps to remove some of these barriers, including: 1) local courts should be encouraged to use standardized forms made available from the State Court Administrative Office, 2) self help litigants should be provided with reliable supplemental assistance at various stages of their legal matter by trained personnel, and 3) a state support entity should be created, to update and maintain a body of self help materials, among others. This work group is currently completing the final revisions of its report.

4. LSC 98-1 Question 4: 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?

A. Support

One of the more significant impacts of the 1996 LSC changes was the elimination of funding for support services-- including national support, state support, clearinghouse, and regional training center services. In Michigan, this meant the loss of over \$400,000 per year to Michigan Legal Services, which had been the primary support provider in Michigan since the late 1960's.

Through the 1995 State Planning Process, two main support functions were identified: activities to enhance the advocacy capacity of local programs and activities to assure that a full range of advocacy remained available to Michigan's low income citizens. The Plan found that support was a critical part of a state delivery system. It recommended that the MSBF allocate additional state funds to maintain adequate support capacity in the Michigan. The Plan also made a number of recommendations aimed at improving the responsiveness and accountability of state support services. See Plan at pg. 8.

In implementing the Plan, the MSBF decided to entirely re-open the support process. The MSBF began in the spring of 1996 by outlining the key support functions and requesting comments on this outline. The final MSBF outline valued both sets of support functions, but placed the highest priority on those support activities that enhance the advocacy capacity of local programs.

After publishing a final support outline, the MSBF issued a request for proposals to provide the identified services. At the end of this extensive process, the MSBF selected a new state support

provider - the Michigan Poverty Law Program ("MPLP"). This program is a partnership between the Michigan Migrant Legal Assistance Project ("MMLAP") (a former LSC program), Legal Services of Southeastern Michigan ("LSSEM") (a current LSC grantee), and the University of Michigan Law School ("UMLS"). The program operates out of three offices. A Grand Rapids office housed at MMLAP handles restricted litigation and legislative advocacy. An Ann Arbor office is jointly staffed by LSSEM and the UMLS and handles the field program support functions. The Poverty Law Clinic at the UMLS handles litigation referred from both of the other MPLP offices.

There are several strengths of the MPLP model: (1) There are more resources in state support in Michigan now than there have been in many years. The overall staffing of the three offices is ten professional staff, including eight attorneys, a training coordinator, and a technology staff person. In addition, twelve to fourteen law students are placed in the program each semester. (2) The model concentrates support resources in the area of building advocacy capacity in the field. (3) The model utilizes law school resources in the legal services system in a way that these resources have not been tapped in the past. (4) The model directly links technology support with advocacy support-- this has been key to coordinating and supporting the technology initiatives described above.

As indicated, the MPLP support model is intended to enhance the advocacy capacity of local programs. While MPLP services include extensive case consultation and support, another major emphasis of the program is staff training.

B. Training

Since 1982, Michigan has been a participant in the Committee On Regional Training ("CORT"), an independent non-profit organization whose members are legal services programs.

Ohio State Legal Services Association ("OSLSA") acts as the fiscal agent of CORT. CORT was created to provide training to legal services providers in the three-state region of West Virginia, Ohio, and Michigan. Member dues support it. About 80% of the programs in the region are CORT members.

CORT has developed a training curriculum that focuses on legal skills training. This curriculum begins with Basic Lawyers Skills Training ("BLST") and goes through Advanced Trial Advocacy Skills Training ("Advanced TAST") and Federal Litigation Training. These trainings are provided in a coordinated fashion, with BLST and TAST offered on an annual basis and other trainings offered every other year, so that advocates can attend the full curriculum over a four or five year period. CORT also offers some substantive and procedural law trainings (usually with a federal law emphasis) and skills trainings for paralegals and secretaries.

MPLP is Michigan's "Training Responsible Program" for CORT purposes. As such, it supplements the CORT skills training are with state-law-based substantive law trainings. These include:

- The MPLP Roadshow, a four-day training (with basic and advanced tracks) updating advocates throughout the state on developments in poverty law;

- A series of mini-seminars, or one day trainings on new issues of interest to legal services advocates;
- Regular task force meetings in the areas of housing law, family law, benefits law, consumer law and elder law, and technology;
- Frequent "issue alerts" sent to advocates in each substantive area;
- Additional substantive law trainings (e.g., farm-worker law and family law trial practice) on state law issues;
- MPLP also publishes poverty law materials and maintains a web page and brief bank accessible to advocates throughout the state.

5. LSC 98-1 Question 5: Private Attorney Involvement

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

The Plan's recommendations were designed to incorporate pro bono work in a statewide system-- not to leave pro bono solely to individual or local initiatives. The first recommendation was that the SBM implement the TF immediately. The second recommendation of the Plan was that "the Bar and the MSBF...design and implement a fundraising plan...@

In addition to directly linking delivery planning and delivery funding to pro bono efforts, the Plan had two main recommendations regarding volunteer efforts by lawyers. The first was that the SBM begin to play a role in the development and support of local pro bono programs, especially in locales where successful programs did not currently exist. Second, the Plan recommended that, on a statewide basis, pro bono capacity be developed to assist with complex cases. The SBM's work on these recommendations is being carried out by the Pro Bono Involvement Committee ("PBIC") (one of the four standing SBM committees which sits on the TF) and by ATJ staff.

In order to assess the current levels of pro bono participation and lawyer attitudes towards pro bono, the SBM sent out a survey on pro bono to all 28,000 of the SBM's Michigan members early in 1997. Over 5,000 surveys were returned. The PBIC and the SBM's Goal Group on Access to Justice analyzed these surveys and used the results in their planning.

The local bar/local program work is directed to energize or develop local pro bono committees. In Kent County, the local committee undertook a newly designed fundraising Campaign that has raised over \$150,000 per year for the local legal services program. ATJ staff follows up on other local efforts through the annual Bar Leadership Institute and the Presidents-Elect Conference held annually in June. Additionally, ATJ staff meets with local bar pro bono committees.

The PBIC's main efforts have been in the "large firm/complex case" area. It noted that large firms and corporate law departments generally were not well connected to local pro bono programs.

The PBIC felt that connecting large firm capacity and local pro bono programs could make a significant impact both on restricted and LSC-permitted cases. There was very little Michigan activity in the ABA-initiated Litigation Assistance Partnership Program (LAPP), and the PBIC believed that the time was right to establish a statewide Michigan large firm pro bono program, called MI-LAPP (Attachment M).

In April of 1997, on the recommendation of the PBIC, the TF approved MI-LAPP. This program aims to link the litigation and transaction capacity of large firm and corporate law departments with local legal service providers. The MPLP and SBM jointly administer the program.

One of the main discussion topics at the 1997 Michigan Bench Bar conference was the judicial role in support of pro bono efforts. As a result of this conference and TF efforts, the Bar's Ethics Committee issued an informal ethics opinion clarifying that judges can take an active role in supporting efforts to expand access to justice for the poor.

Almost all of the SBM's early pro bono efforts were focused on individual volunteerism through local bar and local legal aid programs. The Plan linked this local volunteerism with statewide advocacy efforts. In more recent developments, a statewide large firm recruitment campaign is underway. This effort is coordinated with the overall approach of the Access to Justice Development Campaign (see discussion at (B)(6)(D), supra).

6. LSC 98-1 Question 6: 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?

A. Federal Funding Advocacy

The first collaborative effort of the providers, the MSBF, and the SBM, had to do with the LSC survival effort. This effort began in 1995. In January of 1995, Michigan's House delegation consisted of 16 members, several of which were believed to oppose or have significant reservations concerning continued federal funding for the program.

The SBM established the LSC Advocacy Steering Committee, a five person group of high profile private bar leaders with extensive political contacts and deep personal commitments to access to justice for the poor. Using the expertise of this group, the SBM and the MSBF coordinated contacts to all legislators. By the time of the 1997 vote to increase LSC funding to \$250 million, 13 of Michigan's 16 legislators supported increased funding.

B. State Filing Fees

Michigan passed its state legislative funding for legal assistance for the poor in 1993. That filing fees bill designated a portion of court fees for a Legal Aid Fund. These funds are administered by the MSBF. The initial act provided about \$2 million state wide for legal services with an additional \$2 million diverted from the Legal Aid Fund for a period of 3 years to assist the state Court of Appeals in addressing a case backlog.

The SBM, the MSBF, and LSAM have coordinated advocacy both to protect and to increase the fund over the past four years. These efforts have included a presentation to the legislature by 5 past SBM presidents. The 1998 filing fees appropriation for legal services is \$6.9 million, a 115% increase over the 1997 amount.

C. IOLTA Funding

In 1990, the Michigan Supreme Court adopted the IOLTA (Interest on Lawyers Trust Account) program to capture interest on the aggregate of client funds deposited too briefly or which are too small to benefit individual clients. The court assigns the MSBF to distribute these funds as allocated by the court to several purposes including supporting civil legal aid for the poor. Since 1991, between \$740,000 and \$900,000 in IOLTA grants has been awarded to legal aid organizations each year.

The legal services community was frustrated with the original IOLTA rule, which allocated only 45% of the IOLTA funding to civil legal services to the poor. The rule allocated the majority of the funds to a variety of other programs, including counsel in indigent criminal cases. With the MSBF, SBM and LSAM alliance, the three entities approached the Supreme Court in October of 1997. We conveyed the importance of IOLTA funding to civil legal services to the Court. The Court responded favorably, raising the original 45% allocation to the 70% in November of 1997. In 1998, \$1,350,000 in IOLTA funds have been distributed to legal services programs.

D. The TF Resource Development Subcommittee and the SBM Development Campaign

The Plan recommended a single coordinated statewide fundraising campaign for legal services, and that:

"A full time resource development office should be created and staffed and should begin an annual fundraising Campaign and engage in other fundraising activities. The object would be to provide a long term alternative funding stream not dependent upon government appropriations." Plan at p. 19.

The Plan also recommended that the SBM play a leadership role in this initiative. Plan at p. 17. The GGR recommended that the SBM lead efforts to increase resources for access to justice as well. Under the aegis of the TF Resource Development Subcommittee, TF members, providers, and consultants designed and planned such a campaign.

Acting on a recommendation from the TF, the SBM Commissioners committed \$750,000 over a three-year period to staffing a statewide fundraising campaign. In October of 1997, Thomas G. Kavanagh, Jr., was hired by the SBM to staff the Bar's first development campaign.

Since the production of the IMC Report, implementation of the Development Campaign has continued. The TF's Resource Development Subcommittee approved a Case for Support document (Attachment N). Also approved was a Long Range Plan (Attachment O), which sets forth the goals of raising operating funds and building a \$200 million endowment by the year 2020.

Development staff at the SBM have worked to obtain support and pledges from key members of the bar and the bench before formally beginning the Lawyers and Judges Leadership Phase of the Campaign (Attachments P and Q). The initiation of the leadership phase of the Campaign was announced on September 16, 1998 at the SBM's Annual Meeting. The work to prepare the basis for receiving pledges and contributions is ongoing. This includes an agreement with a community foundation to receive endowment contributions, which qualify for state tax credits, and creation of guidelines for management of the funds by the MSBF.

The SBM Development staff have met with managing partners of Michigan's largest law firms, most of the numerous sections of the SBM, many judges' groups and others to obtain a high degree of participation by bar leaders. The members of the bar are being asked to contribute first so that when the public phase of the Campaign is announced (in Spring, 1999), a positive response can be given when other members of society ask what lawyers have done. In addition, approaches to corporations and foundations are being planned.

All of these efforts are being coordinated with the statewide pro bono programs so that lawyers are not approached multiple times with new requests and that they understand that both service and financial contributions are needed from attorneys. In order to promote support by and coordination with local efforts, the Campaign is working closely with local bar associations and local programs. Legal aid providers have participated in various planning activities for the Campaign, e.g. helping to develop the case for support, facilitating meetings between Campaign officials and local bar leaders, and assisting with presentations to local and state groups.

The SBM Development Director also participates in the resource development study conducted by one of the work groups from the SDS which is reviewing other methods of fundraising in addition to the SBM's private Campaign.

7. LSC 98-1 Question 7: 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?

Through Program Letters 98-1 and 98-6, LSC has urged states to pursue meaningful, open planning. Michigan has done that in a collaborative fashion involving a broad range of stakeholders since 1995 when LSC first asked states to do planning. Indeed the providers and others worked together for many years before that through LSAM and in other ways to, for example, work to secure an IOLTA rule or obtain filing fees legislation. Since the creation of the Plan in 1995, however, the commitment of the planners to a collaborative, statewide perspective has not wavered. Of the 57 recommendations in the Plan, most have been implemented; others have been developed further in the context of continued planning now under the umbrella of the TF described earlier in this report.

In particular, Michigan's IMC Report was produced after in-depth work to study the administrative and operational factors in legal aid programs. The resulting findings and recommendations included analysis of areas where integration of effort among programs could increase efficiency and effectiveness, as well as factors which could facilitate any merger discussions. (Attachment R). Because the IMC Report focused on administration and operations, it recommended that the SDS incorporate issues related to integration or merger considerations in the service delivery area in the SDS work (see section (A)(7), supra).

Michigan has had success within our planning process, producing the specific results described in this report and directing our efforts for the future in areas that stem from the focused topics defined in the Plan, the GGR and the products of implementing both.

It is this process and the collaboration and openness within it that are trusted by the stakeholders in Michigan to determine what are the best decisions for our delivery system. What recommendations the process may produce regarding configuration of its components will depend on the outcome of this process. Also, the timing of any such decisions will depend on the needs identified in this process. For example, the statewide Development Campaign is of such importance now (including quelling of local skepticism and fostering of local support) that initiatives that might undermine it and destroy the window of opportunity now present to get the Campaign off the ground are not warranted. Further, the collaboration and consensus decision-making that has made Michigan's planning process vital would be threatened by imposing any solutions not generated by the process itself, e.g. forced mergers. We have confidence that our process will address all important service delivery issues in ways that have the best chance of succeeding in our state and for determining the best timing to address each. If our process determines that reconfiguration (as opposed to statewide technology, joint projects, and other methods we may develop to increase integration, efficiency and effectiveness) is the best option, the strength forged by now years of working together on delivery challenges will assure that Michigan will handle that.

C. Other Michigan Initiatives

1. Efforts to Assure a Full Range of Advocacy

A. Michigan's Delivery System Should Provide Low Income Persons with Access to a Full Range of Legal Services

The Plan acknowledged that the types of advocacy, which Congress sought to prohibit, included very important methods for protecting the legal rights of low-income persons in Michigan. As a result, the Plan called for a [legal services delivery] system that provides a full range of client services in all relevant forums: individual service, complex litigation, administrative and legislative advocacy, and community legal education, alternative dispute resolution, etc. See Plan at page 20.

Starting in 1996, Congress prohibited federally funded legal services programs from serving as counsel on any class action litigation, undertaking some types of administrative advocacy and legislative advocacy, filing legal challenges to unlawful welfare laws and regulations, representing public housing tenants in certain types of eviction cases, from providing representation to most non-U.S.-citizens, and from seeking statutory attorney fees. As indicated in the overview to the Plan, when the subcommittee reports are read as a whole, they provide that every effort should be made to create or find new entities as well as private attorneys to provide services no longer permissible with LSC Funds. Plan at page 3. In addition, the GGR supports a full range of services as does the core capacities document (Attachment D and Attachment G).

2. Overview of Developments 1996-1998

Since the Plan was adopted, the legal community has taken these steps to ensure that clients have access to a full range of legal services:

- \$ Creating or redefining organizations dedicated to preserving a full range of legal services to the low-income client community.
- \$ Identifying other organizations that may be resources and working to develop relationships with these organizations.
- \$ Expanding the availability and capacity of pro bono resources.
- \$ Improving the ongoing communication and coordination between LSC and non-LSC providers.

3. Creation of New Entities

In the last two years, four legal organizations have undertaken the specific goal of preserving the types of advocacy and services to low income persons that are no longer available from federally funded legal services programs.

A. The Michigan Poverty Law Project

MPLP-West is primarily responsible for the "diversified" services in state support, although the University of Michigan's Poverty Law Clinic is unrestricted for litigation and administrative advocacy purposes. These programs have undertaken state-level policy advocacy related to landlord-tenant, health care, family law, and transportation safety for migrant workers. MPLP's work plan requires that litigation should be undertaken with the assistance of coordinated pro bono counsel.

B. The Center for Civil Justice

In 1996, Legal Services of Eastern Michigan (LSEM) contracted with a county legal aid society in its region to finish a variety of cases and projects that LSEM would not be able to continue under the LSC restrictions. That entity, which has been renamed the Center for Civil Justice (CCJ), now uses a portion of the filing fee and IOLTA funds allocated to the 10 county region its shares with LSEM to ensure that clients in that region have access to a full range of advocacy services. Due to CCJ's emphasis on issues that impact large numbers of low income persons in its area, much of CCJ's advocacy benefits low income persons throughout Michigan.

C. Michigan Legal Services

Michigan Legal Services (MLS) was formerly the organization providing state support in Michigan. Starting in 1997, after MLS was no longer responsible for statewide support, MLS decided to use its remaining non-federal funding to provide legal and policy advocacy. Although MLS works most closely with clients and organizations in the tri-county metropolitan Detroit area, MLS-work -- like CCJ -- emphasizes cases and issues that have the potential to benefit low-income clients throughout the state.

D. Michigan Migrant Legal Assistance Project

MMLAP was the LSC-funded migrant service provider in Michigan until 1997. Beginning in 1997, MMLAP declined to apply for LSC funds so that it would be able to provide a full range of services to migrant clients, including those that did not have LSC-required citizenship documentation, those who had claims involving welfare reform issues, etc. MMLAP's advocacy goals include both litigation and policy advocacy on health, welfare, employment, and housing issues.

4. Coordinating Advocacy Between LSC and Non-LSC funded Organizations

At the suggestion of the MSBF, beginning early in 1997, MPLP convened a series of "coordinating

advocacy" meetings, where advocates from all of these agencies meet to share information and to coordinate advocacy efforts. These efforts have included two related initiatives: better coordinating the work of the legal services programs with that of other advocacy organizations; assuring coordination between LSC and non-LSC legal services providers.

There are a number of organizations in Michigan that are not funded by Legal Services Corporation that are -- or may be -- a resource for preserving a full range of services to low income clients. Some of these organizations have the mission of serving only low-income clients. Others have a broader mission, but frequently provide services to the low-income client community. Some have attorneys who provide legal representation, and others have non-lawyers engaged in policy advocacy. Legal services advocates in Michigan have identified several such organizations and have taken initial steps to establish more effective working relationships with them. These organizations include the Michigan League for Human Services, the diocesan-funded programs providing immigration advocacy services, the state Protection and Advocacy program, Welfare Rights Organizations, and others.

In order for diversified advocacy to be a meaningful part of an integrated and comprehensive delivery system, it is critical to develop processes and forums where advocacy efforts can be shared and coordinated. This is needed, in part, to try to avoid duplication of efforts, to increase the collective capacity of providers to identify and refer cases or projects to those providers in the community best situated to handle them, to establish, where possible, a coordinated position and strategy on particular policy issues affecting low income persons.

Some examples of initial efforts to improve cooperation and communication between some of the non-LSC organizations engaged in legal and policy advocacy on behalf of low income persons include: the #Kids SSI@project (co-sponsored by the SBM, the Michigan Protection and Advocacy Program, MPLP, and LSAM); the technology coordination described above; and the expansion of the MPLP Task Forces to include non-LSC funded advocacy. This work is still beginning-- there are still organizations outside the traditional legal services community with whom the legal service providers wish to establish more active and effective relationships. The SDS survey (Section (A)(8) supra) will permit us to identify and establish relationships with hundreds of such organizations.

5. LSC Restrictions on Advocacy

Based on our experience with the Michigan process, we make the following comment to LSC regarding the 1996 restrictions.

The Michigan process seeks to assure that a full range of advocacy services will be provided to all low income persons with civil legal needs; at the same time, the Michigan process seeks to assure that all LSC-funded and state funded grantees comply with all funding restrictions.

In our review of the LSC restrictions, we have concluded that some of the 1996 LSC restrictions inhibit the goal of the Michigan process-- to assure that a full range of services is available to all low income persons facing a legal problem. See Michigan's "Core Capacities" document, Att. A. This set of concerns has direct implications for our planning process. At the point where we conclude that the LSC restrictions cannot be changed and that these restrictions prevent us from

fully serving the legal needs of the poor, we must explore alternatives. These alternatives might include substantial reorganization of the current provider network. This exploration might lead the state planners to further isolate and segregate restricted LSC funds from less-restricted state and local funds.

In exploring these options, we would not be attempting to minimize accountability to LSC or compliance with the LSC restrictions— indeed, we accept these as givens. However, the overall goal of our planning process is broader than the current scope of LSC advocacy; the true accountability of the Michigan planning process is to Michigan's low income citizens.

We believe that LSC can play a role in assisting state planning by advocating to Congress for modifications in the restrictions that permit LSC grantees to serve a broader portion of the client population. We urge LSC to look for opportunities to ameliorate these restrictions.

Examples of restrictions that low income advocates have identified as interfering with full services to clients include the following:

--Class Actions. There are many relatively routine civil disputes that can only be handled efficiently through the procedural tool of class actions. Under the current restrictions, LSC-funded programs cannot efficiently litigate these claims. The results are that claims may be litigated in a very inefficient manner (for the courts, the clients, and for all the parties) or that the legitimate claims of low income consumers cannot be raised.

A case example that arises fairly frequently in program offices that demonstrates these problems would involve a used car dealer that markets its cars to lower income, high credit risk buyers and unlawfully requires all such buyers to purchase high cost "credit life" insurance. In this type of case, each individual claim has a value of about \$500. There may be over 1000 low income buyers victimized by this practice each year. The individual buyers may not ever realize that their rights were violated. If they do, they may attempt to proceed in small claims court; however, the dealer will then retain counsel and remove the cases to district court. If an LSC funded program files an individual case, the dealer will settle the case through a refund of all monies paid-- a settlement that makes the individual client whole but permits the dealer to continue the unlawful practice.

Under the current restriction, the LSC-funded program will most likely refer a number of clients to small claims court and then will appear in and settle some number of individual cases. Most victims of the unlawful practice will receive no relief-- either because they don't personally come to the program or because the program lacks the resources to file a suit for every individual with this type of claim. The dealer's unlawful practice will continue to claim new victims. The local court will be besieged with many similar suits, many involving pro se litigants who have a great deal of difficulty understanding the process. The net effect of these suits will be to occupy many hours of court time without ever resolving the real issue-- the unlawful practice of the used car dealer.

--Attorneys' Fees. Under Michigan law, a nominal fee applies to every case

handled in Michigan courts, MCL 600.2401, et seq.; MCL 600.2441. There are other cases (e.g., under Fair Housing statutes or consumer protection laws) where congressional policy clearly favors fee-shifting and where prohibiting low income clients from raising a fee claim significantly undermines an LSC-funded program's ability to adequately represent the client.

Examples here are consumer cases filed under federal consumer protection statutes such as Truth in Lending. These statutory defenses are frequently raised as a defense in a suit to foreclose a low income family's home. In the past, the value of the fee claim was often "settled out" as part of an overall settlement that reinstated the family's mortgage. Under the restriction, this no longer can happen. Because counsel for the mortgagee usually know about the restriction, the negotiating value of this type of case is now \$5,000 to \$10,000 lower if an LSC-funded program appears as counsel. In other words, because the LSC program is prohibited from raising the fee claim, **the client** is punished-- their claim is now worth less than congress intended when it passed the law.

Because LSC-funded programs know that their inability to make a fee claim clearly and tangibly devalues their client's claim, they are extremely reluctant to accept these cases-- cases where low income homeowners are facing foreclosure and have meritorious consumer defenses. These cases were priority cases in almost every Michigan program before 1996. The fee provision places legal services attorneys in a terrible ethical bind: it is ethically difficult to accept this type of case, because the value of the case to the client is significantly diminished if the client is represented by an LSC-funded program; it is ethically difficult to reject the case because, as a practical matter, no other counsel is available to the client.

--**Claims on Behalf of Prisoners.** While this prohibition might appear to be aimed at prisoners' rights cases, the reality is that there has been little or no prisoners' rights litigation filed by Michigan programs for many years. Most claims on behalf of "prisoners" historically handled by Michigan programs are priority cases in family law or housing law areas where an eligible client is incarcerated for a short period of time for reasons not directly related to the civil legal case-- e.g., a client in jail on a misdemeanor arrest is unable to make a rent payment and the client's family (often including minor children) is facing eviction. The effect of this restriction is that vulnerable clients with compelling civil cases that fit directly within traditional legal services' case priorities are left without counsel as they face a court hearing. Because these clients are usually unable to attend the hearings in their civil cases, they are frequently defaulted, even when they have meritorious legal defenses.

These are examples-- there are other restrictions where relatively minor language changes might significantly improve the ability of Michigan's programs to represent clients and would be much less disruptive of delivery of services to the poor on a statewide basis. We urge the Corporation to be aware of these impediments to effective delivery and to take advantage of any opportunity to ameliorate these over broad restrictions.

6. Quality Assurance

When it became apparent that LSC's peer review process would be eliminated, LSAM, in its own effort to address quality, began discussing how peer reviews might benefit Michigan's providers. Similarly, the MSBF decided to expand its role in quality assessment in light of LSC's diminished role. LSAM contacted the MSBF about coordinating approaches to peer review, and, in 1997, members of LSAM joined members of the MSBF's Legal Services Grants Committee (LSGC) to visit the Ohio Legal Assistance Foundation when Paul Doyle (Florida Bar Foundation Legal Services Director) was discussing Florida's peer review program. In 1997, the MSBF ultimately approved a system modeled on the peer review process being used in Florida. This system uses site visits to provide the type of expert assistance which can help programs and give appropriate feedback to the funder.

The MSBF approved adequate funds from within its budget to allow out of state experienced legal services managers and experienced poverty law and public interest law litigators to serve as key members of a site visit team. These teams would also include MSBF staff and a MSBF Board member and/or other volunteer lawyer (typically from outside the program's locale). Occasionally, as needed, management experts from other nonprofit organizations or other experts may also be used. The objective of the process is to tap creative and competent minds around the country to help bring new ideas and energy into the state for reviewing issues related to quality. The objectivity of outside reviewers was viewed as giving added credibility to decisions resulting from the information obtained in this way and also assuring donors in the Development Campaign that objective quality assessment systems are in place. Both LSAM and the LSGC acknowledged that the ABA Standards will be used as a guideline and that LSC's major involvement in evaluation will be through the LSC's OIG compliance audits. These audits together with program financial audits and grant reports, will be generally adequate regarding financial and compliance information.

The site visit component of the MSBF's evaluation system was planned to coordinate with the written Grantee Annual Reports (GAR) and grant application. All aspects of the evaluation program are consistent with the MSBF's evaluation policy, adopted in 1993 by the MSBF's board. The policy articulates three major purposes of evaluation:

- evaluating program performance in order to provide in-depth advice and feedback to the provider to improve its operation and the quality of its work product;
- evaluation as a fact-finding step prior to the provision of technical assistance; and
- assuring others of an objective, credible basis for assessing quality.

In keeping with these objectives, the MSBF will consider providing funds for technical assistance to assist quality improvement when necessary. Also, the MSBF expects that information from the evaluation process will provide a perspective on systemic and/or statewide needs to assist in continued statewide planning for a quality delivery system.

The MSBF hired a new staff person in August, 1998 in part to help administer the site visit program. The first site visits will occur in 1998. Since each program will have a peer review once every three years, the first round of site visits will conclude in mid-2000.

D. Conclusion

As a result of the 1995 Planning Process initiated by LSC, a new set of relationships between the SBM and the legal services providers has been created; a new environment now exists in which collaborative statewide planning for the delivery of legal services to the poor is taking place. As a result of the partnership between the SBM, the MSBF, and the providers, many significant, tangible successes have been achieved. These successes include:

- \$ The Michigan congressional delegation overwhelmingly supports continued funding for legal services.
- \$ State funding (IOLTA and Filing Fees) for legal services has tripled.
- \$ The SBM has initiated a Development Campaign to achieve ongoing, stable funding for legal services.
- \$ An extensive, coordinated statewide technology plan has made computer technology accessible to legal services providers and their clients.
- \$ The SBM has established Access to Justice as its highest long term priority and has hired the staff to realize its goals in this area.
- \$ The MSBF and the providers have re-established a state support system that involves a unique partnership with a major national law school, that has significantly increased the overall resources in state support, and that focuses support services towards enhancing the capacity of local programs to serve clients.

In addition to those listed above, many other planning efforts (SDS, IMC, hotlines, quality assurance, technology) continue to build a solid Foundation for more results ahead. This is due to the vitality and collaboration in the ongoing Michigan planning process. This collaboration was acknowledged in July, 1998 when the SBM received the American Bar Association's Harrison Tweed Award (Attachment S) for Michigan's efforts to enhance legal services to the poor. Since it began in 1995, the planning process has taken on a life of its own. In fact, the Michigan planning efforts discussed in this report were the priorities identified by the Michigan planners before Program Letter 98-1 was issued.

We appreciate LSC's interest, guidance, and support in this process. We look forward to working with LSC as the Michigan process continues towards the goal of access to justice for all.

Submitted September 30, 1998 By:

State Bar of Michigan
Michigan State Bar Foundation
Legal Services Association of Michigan

Michigan State Planning Report

Acronyms In Order of Appearance

LSC:	Legal Services Corporation
Plan:	The Michigan Plan, A State Based Plan for the Delivery of Civil Legal Services to the Poor
SBM:	State Bar of Michigan
MSBF:	Michigan State Bar Foundation
LSAM:	Legal Services Association of Michigan
TF:	State Bar of Michigan Access to Justice for All Task Force
IMC:	Integration and Merger Committee
ATJ:	Access to Justice
GGR:	SBM Long Range Plan Access to Justice Goal Group Report
CC:	Computer Committee
SDS:	Service Delivery Subcommittee
HSG:	Hotline Study Group
MLAN:	Michigan Legal Aid Network
MPLP:	Michigan Poverty Law Program
MMLAP:	Michigan Migrant Legal Assistance Project
LSSEM:	Legal Services of Southeastern Michigan
UMLS:	University of Michigan Law School
CORT:	Committee on Regional Training
OSLSA:	Ohio State Legal Services Association
BLST:	Basic Legal Skills Training
Advanced TAST:	Advanced Trial Advocacy Skills Training
PBIC:	Pro Bono Involvement Committee
MI-2LAPP:	Michigan Litigation Assistance Partnership Program
IOLTA:	Interest on Lawyers Trust Accounts
LSEM:	Legal Services of Eastern Michigan
CCJ:	Center for Civil Justice
MLS:	Michigan Legal Services
LSGC:	Legal Services Grants Committee
GAR:	Grantee Annual Report

Michigan State Planning Report

List of Attachments In Order of Appearance

- A. Michigan Plan: A State-Based Plan for the Delivery of Civil Legal Services to the Poor
- B. SBM Task Force Organizational Chart
- C. Integration/Merger Committee Report, Findings and Recommendations
- D. SBM Long Range Plan Access to Justice Goal Group Report
- E. Hotline Pilot Project Evaluation Questions
- F. Service Delivery Subcommittee Planning Process Time Line
- G. Core Capacities of an Effective Statewide System for Delivering Civil Legal Services to Low Income Clients in Michigan
- H. Service Delivery Subcommittee Survey (Example: Courts)
- I. Technology Projects Work Plans and Computer Committee Work Plan
- J. 8-31-98 State Technology Status Report
- K. Michigan Technology Guidelines for Programs and Michigan Technology Plan
- L. MSBF Grant Application - Technology Questions
- M. MI-LAPP Recruitment Packet
- N. Development Campaign Case for Support
- O. Development Campaign Long Range Plan
- P. Development Campaign Pledge Form
- Q. Development Campaign Leadership Phase: "2020 - A Vision for the Future"
- R. MSBF Letters to Program Board Chairs re: IMC Report
- S. ABA Harrison Tweed Award Nomination Narrative