



THE MICHIGAN PLAN

A STATE-BASED PLAN
FOR THE DELIVERY OF
CIVIL LEGAL SERVICES
TO THE POOR

Submitted Through the
Collaborative Efforts of the
State Bar of Michigan
Michigan State Bar Foundation
Legal Services Association of Michigan

October 1995



THE MICHIGAN PLAN

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INTRODUCTION

Recent actions by the U.S. House and Senate severely reducing federal funding and dramatically increasing restrictions on what legal services programs may do on behalf of clients will alter virtually all aspects of the current legal services delivery system. As of this date it appears that funding cuts to Legal Services Corporation ("LSC") funded programs of 25% or more are certain; it also appears that approximately twenty significant restrictions on LSC advocacy will be imposed. These cuts and restrictions are expected to be effective January 1, 1996. While the final details of 1995 Congressional actions are not yet all known, we do know that legal services in every state will certainly be facing massive changes.

DESCRIPTION OF THE PLANNING PROCESS

In response to this, LSC requested that each state undertake a planning process for comprehensive, integrated delivery of legal services in the future and submit a plan by November 1, 1995. (An abbreviated version of this document addressing the topics specified by LSC was in fact sent on November 1, 1995 to LSC.) In order to comply with LSC's request, relevant persons were brought together to discuss the future of legal services in Michigan. Leaders from the State Bar of Michigan (hereafter "SBM" or "the Bar"), the Michigan State Bar Foundation (hereafter "MSBF" or "the Foundation") and Michigan's legal services providers (represented by the Legal Services Association of Michigan, "LSAM",) held a day-long meeting on September 6, 1995 during which some 30 participants discussed state-based planning for legal services.

This event originated from a request from the Legal Services Association of Michigan for an all-day meeting with the Foundation's Legal Services Grants Committee ("LSGC") to talk about considerations affecting the future of legal services. The Foundation established a Planning Committee with LSGC members and legal services grantees. As the Committee began its work, it became apparent that State Bar participation in the effort was critical, and a State Bar representative was added to the Planning Committee. The Planning Committee (see Attachment C) concluded that focusing on state-based planning would be important, not only for its impact on LSC's 1996 funding decisions, but also on the Foundation's and other funders' decisions in light of how deeply LSC changes will affect the infrastructure that has existed for legal services for decades in Michigan.

The September 6th agenda included discussions of: the components of an effective statewide delivery system; the issues that arise as a consequence of reduced LSC funding and added restrictions; and how the group might proceed with productive next steps in the planning process. The September 6th meeting resulted in identification of the issues that must be discussed in the Michigan planning process and consensus on a process for the development of those issues into a state plan. At the meeting, the participants: (1) agreed on the basic components of an effective legal services delivery system (see Attachment A) and (2) identified nine planning topics (see Attachment B) to be addressed.

The group also determined that the best way to proceed with our short timeline was to appoint nine work groups, one for each planning topic, and ask each to submit recommendations and other input for addressing their planning topic. The attendees at the September 6th meeting asked the Planning Committee to recruit a range of participants for the work groups that would include expertise, diversity and persons from inside and outside of the current LSC legal services provider network. Written input was also solicited from 92 client-related groups and from staff of legal services programs.

Nearly 80 persons representing both LSC and non-LSC experience agreed to serve on the work groups (see Attachment E). Each work group met several times and produced recommendations for addressing their work group topic in light of the likely LSC changes and the overall statewide vision adopted at from the September 6 meeting, "Basic Components of an Effective Legal Services Delivery System (see Attachment A)." The nine work groups covered the following areas:

- | | |
|---------------------------|------------------------------|
| 1. Resource Development | 6. Standards and Oversight |
| 2. Support | 7. Special Needs Populations |
| 3. Service Delivery | 8. Diversification |
| 4. Pro Bono | 9. Technology |
| 5. Merger and Integration | |

The groups submitted some 57 recommendations and more than 120 pages of work group reports. All of the recommendations were compatible. Because of the length of the work group reports, the full text is not included in the Recommendations section that follows. That section lists only the recommendation statements themselves. The full reports are on file, as is a separate list of all ideas, whether in recommendation form or otherwise, specifically offered for activities, actions or policy for the State Bar.

Within this context, the Planning Committee studied the recommendations and compiled a draft report for consideration at an October 26, 1995 General Planning Meeting. Invitees included representatives of the State Bar of Michigan, Metropolitan Bar Associations, Michigan State Bar Foundation and Legal Services Association of Michigan members (see Attachment D). There was an extensive discussion of the draft report at the all-day planning meeting; many suggestions for improvements to the report were made by the group. However, there was no substantial disagreement among those at the meeting as to the final content of the report. The Planning Committee was asked to prepare a final draft based on the October 26th discussion.

TAKING THE MICHIGAN PLAN FORWARD

The most exciting part of the planning process is what it holds for the future. The recommendation that is perhaps most central to the development of actions that will improve equal justice in Michigan in the years ahead focuses on the proposed State Bar of Michigan Task Force on the Delivery of Legal Services to Those in Need. Several work group recommendations call for the implementation of this Task Force in a way that will bring high level leadership from the legal profession to the future of legal services. They also suggested that the work groups formed to draft this plan, as well as the Planning Committee, remain intact as advisory groups to assist the Task Force in taking the MICHIGAN PLAN forward.

Among the other recommendations, the following were particularly emphasized in the work group reports read as a whole:

- | Increased resources are needed for legal services.
- | Technology will be essential in the delivery of legal services in the future.
- | A greater amount and range of pro bono services will be needed.
- | Building on the experience and relationships of the current provider network is the best foundation for implementing innovations and improving quality and efficiency.
- | 1996 LSC dollars for basic field services should go to the current eleven LSC field grantees.
- | 1996 LSC dollars for Native Americans and Migrants should go to the two current providers as indicated in the Special Needs work group recommendations depending on which outcome results from Congressional activities on these items.
- | The Foundation should use its discretionary dollars to fund state support in the manner indicated in the support work group report.
- | 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.

The LSC-mandated planning brought the providers, the MSBF, and the SBM together. The planning process has put Michigan in a good position to continue productive efforts toward assuring that those in need have access to justice in Michigan. The Planning Committee wishes to thank the many people who helped in the planning process and also the State Bar Task Force for its commitment to continue working on the matters contained in this Plan. We look forward to working toward equal justice with the Task Force and others in the future.

October, 1995

RECOMMENDATIONS

SERVICE DELIVERY

The current Michigan system for the delivery of civil legal services to the poor, due in large part to the past collaborative efforts of the providers and the current leadership of state funders, is an effective statewide system. During 1994, Michigan's fifteen programs provided service in over 82,700 cases and matters. The statewide cost per case was approximately \$235 per case. Since almost all programs used their LSC dollars to leverage non-LSC funds, the LSC cost per case was under \$150. The following recommendations are intended to both maintain and improve the current effective system.

RECOMMENDATION # 1

A BASIC STAFF ATTORNEY DELIVERY SYSTEM. The MSBF, the SBM, and the providers reaffirm their support for a basic staff attorney delivery system supplemented by pro bono attorneys and others.

RECOMMENDATION # 2

A STAFFED OFFICE TO HANDLE IMPACT WORK. There should be a legal office set up to handle the impact work that is needed to adequately protect the rights of poor people. Impact work can include class action and appellate cases. It also envisions advocacy before lawmakers and agency representatives.

RECOMMENDATION # 3

INCREASED PRO SE KITS, CLINICS AND COMMUNITY EDUCATION. Pro Se Kits, clinics and educational presentations should be utilized more widely. Kits and forms could be developed on a state-wide level with attachments regarding local practice and procedures.

RECOMMENDATION # 4

INCREASED AND IMPROVED METHODS OF ALTERNATIVE DISPUTE RESOLUTION. While attention must be given to any potential barriers to effective use of ADR by low income clients, increased and improved methods of ADR should be explored and utilized more widely.

RECOMMENDATION # 5

A MODIFIED STATEWIDE OR REGION-WIDE HOTLINE. Establishing a modified statewide or regional hotline should be studied. Such a hotline would be staffed by legal service and pro bono attorneys who would conduct computerized telephone intake giving advice, counsel and referrals. There would be a single state-wide hotline 800 number, but the actual intake could be done by state or region.

Under the hotline system, the attorney would take the call directly and enter the intake data

immediately on the computer and give counsel and advice, or refer the case and then immediately close the case on the computer. The attorneys doing the intake would be supported by a receptionist (who would take the overflow calls and provide the attorneys with information necessary to make a call back) and a reviewing or supervising attorney who would review all the intake data at the end of the day.

PRO BONO DEVELOPMENT

Many of the current MSBF-funded programs in Michigan grew out of local bar association pro bono projects initiated in the 1960's or before. There have been active LSC-regulated pro bono programs in many Michigan communities since 1982. Many of these programs have been developed in conjunction with and are co-sponsored by local bar associations.

There has been an increasing role for the SBM in fostering communication, coordination, and collaboration between LSC and non-LSC pro bono programs for the past three years. This SBM coordination role occurs through the SBM Pro Bono Involvement Committee ("PBIC") and through Pro Bono Forums which are quarterly meetings convened by the Executive Director of the SBM. These include the chairs of the four SBM standing committees concerned with poverty law issues (the PBIC, the Legal Aid Committee, the Senior Justice Committee, and the Committee on the Delivery of Legal Services), LSC-funded project directors, LSC-funded and non-LSC-funded pro bono program coordinators, local bar officers and directors, and others interested in pro bono issues. The MSBF, recognizing the needs for increased pro bono and innovative programs to involve the bar in pro bono, established a special grant cycle devoted to pro bono issues in 1994.

The following recommendations are intended to build on the current efforts to increase attorney involvement in the delivery of legal services to the poor both through direct service and through fundraising assistance.

RECOMMENDATION # 1

STATE BAR TASK FORCE ON LEGAL SERVICES. The State Bar Task Force on Legal Services should be implemented as soon as possible, with specific goals, policy, budget and staff.

RECOMMENDATION # 2

A FUNDRAISING PLAN. The State Bar and the State Bar Foundation should design and implement a fundraising plan, in cooperation with local bar associations and legal aid offices. The plan should seek to put in place as soon as possible professional and non-professional personnel working statewide to increase dollar donations, by lawyers and others, to keep current pro bono and government programs concerning legal indigency at least at pre-cut levels and, if possible, to increase to prior levels of service. The design of the statewide fundraising plan should include specific provisions for staffing and funding the fundraising effort.

RECOMMENDATION # 3

PAI REQUIREMENT. The current requirement that programs demonstrate a substantial commitment to private attorney involvement (PAI) by devoting 12.5% of resources to PAI should be continued regardless of budget reductions. The regulation itself should be amended to provide maximum flexibility to local agencies in the use of such funds.

RECOMMENDATION #4

NEW LOCAL PRO BONO PROGRAMS. In locales where available pro bono programs do not exist, the State Bar should mount a major campaign quickly to assure that each identifiable local bar association establishes and maintains such a program. This campaign should be designed to provide both staff assistance and limited funding (if needed).

Such a pro bono program should include:

- # Involvement of private attorneys in intake systems focused on consultation, advice and referral services.
- # Cooperation with Michigan law schools to assess the participation of law students and law alumni.
- # Inclusion of other law-related organizations as participants, such as paralegals.
- # Development of adequate educational materials covering poverty law for involved lawyers and pro se for clients.
- # Pro bono activities suggested by the State Bar Pro Bono Reference Manual.

RECOMMENDATION #5

LOCAL LSC PRO BONO PROGRAMS. Where current legal aid providers pro bono programs exist, local bar associations should aggressively support such programs with funds and services as part of their activities and programs.

RECOMMENDATION #6

IOLTA FUNDS. The Michigan Supreme Court should re-allocate IOLTA funds to their original purpose, using 100% of them for civil legal aid.

RECOMMENDATION #7

OTHER FUNDS. In order to maintain existing LSC-funded legal aid societies as much as possible (on a short-term basis, until long-term plans are implemented), the State Bar, the State Bar Foundation and local bar associations should release their current, unallocated funds to make up for the shortfall of the budgets of the current Michigan providers of indigent legal services that are adversely affected by current LSC cuts.

RECOMMENDATION #8

STATE BAR DUES. The State Bar should consider an increase in dues earmarked for distribution through the Foundation's existing grant-making facilities to support projects consistent with the State Bar's legal services policies and priorities.

RECOMMENDATION #9

TRANSFER OF PENDING CASES. The State Bar should undertake efforts to assure that law firms are available and willing to take over pending cases and accept new cases that fall within the LSC prohibited activities. Some of these cases may need to be transferred by January 1, 1996.

SPECIAL NEEDS POPULATIONS

In addition to providing funding for "Field" programs (that provide services to a set geographic area) LSC has historically provided funding to two statewide programs that provide services to special needs populations. These programs are Michigan Migrant Legal Assistance (which provides services to migrant farm workers) and Michigan Indian Legal Services (which provides services to Michigan's Native American population). LSC decided to provide service to these populations through separate programs because of access problems (e.g., it is very difficult for a migrant farm worker family to make arrangements for service with most programs) and the specialized nature of the legal problems faced by these populations (e.g., most legal services generalists do not feel comfortable giving advice on tribal law questions).

These two special populations have been funded by LSC. However, legal services providers have recognized for years that there are additional populations, which have special access problems or specialized legal needs, and which are difficult to serve through traditional general legal services programs. These populations include, as examples: institutionalized persons (nursing homes, jails, prisons, mental health facilities); the elderly; persons who are physically, mentally, or emotionally handicapped; and the isolated rural poor.

To some extent, some of the legal needs of some of these populations have been met, either through special programs sponsored by LSC-funded providers or through non-LSC-funded programs. As the role of LSC diminishes and the overall funding for legal services to the poor decreases, it is important that the special needs of these populations be addressed in a coordinated, statewide basis. Providers must coordinate services so that a full range of services is provided to all segments of the low income community.

RECOMMENDATION # 1

FUNDING FROM A VARIETY OF SOURCES. Funding should be sought from a variety of sources. The mix of such funds will be dependent on whether current funding sources will continue to be available in sufficient levels or whether new restrictions mean that certain populations or services will no longer be eligible for LSC support. Final decisions regarding 1996 funding of the legal needs of special populations have not yet been made. If possible, LSC funding should be maintained for the Migrant and Native American programs (at the same pro rata share of current LSC funding), either through a national line item or on a statewide basis from the Michigan funding pool. Bar Foundation support should be used in a coordinated manner if LSC funding is significantly reduced or eliminated.

RECOMMENDATION # 2

SERVICES AND SPECIALIZATION. Specialization yields a level of expertise that is not likely

matched in the context of a broader array of services. To the extent possible, the current programs that serve special populations should be maintained to address the unique legal needs of these special populations.

Legal services providers should assess their eligibility guidelines and intake procedures in an effort to assure that special populations have equal access to services. Coordination of services between the special needs population providers and the general population providers should be improved. The efficacy of a statewide hotline as a means to provide easier access to quality legal services — in a manner that accommodates the unique needs of special populations — should be assessed.

RECOMMENDATION #3

CONTINUED PLANNING. The State Bar should continue to provide leadership in a process to do a more deliberate analysis of issues related to the delivery of civil legal assistance in Michigan. Participants in this process should include leadership from the State Bar, service providers, clients and client organizations, and possibly the judiciary, the legislature, and the executive branch. Included in this group should be representatives whose role is to represent the particular issues that special needs populations face in obtaining legal services. This effort should be supported by a wide variety of advocates who would bring a variety of perspectives to the process. The charge of this committee would include assessing the civil legal concerns of Michigan's residents, including those with special needs.

SUPPORT

For over 25 years, Michigan's legal services delivery system has been based on eleven local "Field" programs and a statewide program providing litigation support, coordinating advocacy, and providing training to the attorneys in the field programs. Michigan Legal Services ("MLS") has been Michigan's support provider. In addition, support for substantive advocacy on federal law issues has been provided by sixteen national support centers. It appears certain that both MLS and all sixteen national support centers will lose all their LSC funding as of January 1, 1996. It is critical that some system to provide support to local programs and to coordinate advocacy among programs be maintained.

The planning process recognized this critical need and structures to maintain a state support system were suggested (by replacing some of Michigan Legal Service's "MLS" LSC funding with MSBF funding). At the same time, the process recommended ways to improve the current support system by making it more responsive to and accountable to Field programs. While references are made to MLS in the recommendation statements, the concepts reflected in those recommendations would be applicable to any other entity that may be funded or otherwise selected to provide support.

RECOMMENDATION #1

CORE SUPPORT FUNCTIONS. To the greatest extent possible, core support functions should be provided by a single, non-LSC supported entity such as Michigan Legal Services. These functions

should include the following LSC-prohibited activities:

- # Legislative and administrative advocacy
- # LSC restricted impact litigation and
- # LSC restricted support for continued legal services

as well as the following LSC-permissible activities:

- # Support for field program litigation
- # Coordination of task forces in substantive legal areas of importance to field programs.
- # Coordination of training for field programs

RECOMMENDATION #2

ADEQUATE FUNDING. The core support functions described above must be adequately funded. The work group thought that a support provider should be funded to assure four FTE advocates. The work group assumed that total funding in the area of \$400,000 should be adequate to assure that the support functions outlined in recommendation #1 were covered. Assuming that MLS would be the support provider and that MLS would retain its 1995 non-LSC funding, the work group believed that around \$100,000 (estimated amount) in new funding would adequately fund support in 1996. The work group encouraged the MSBF to provide this additional funding, but to do so, if possible, utilizing discretionary funds.

RECOMMENDATION #3

COLLABORATION. MLS and local programs should work together to enhance the ability of local programs to provide each other with substantive law support.

RECOMMENDATION #4

TRAINING. Training should be coordinated by MLS, and provided in cooperation with local programs, task forces, and CORT. MLS, in connection with the substantive law Task Forces and the Training Advisory Committee, should identify priority needs for substantive or practice manuals and develop strategies for producing the manuals within a reasonable time frame at a reasonable cost.

RECOMMENDATION #5

EXPENSES. MLS must significantly reduce or eliminate administrative costs through relocation and physical merger with an appropriate non-LSC funded entity.

RECOMMENDATION #6

ACCOUNTABILITY. Any entity providing support to the Field must have a board structure that assures accountability to direct providers of legal services to the poor.

RECOMMENDATION #7

ADVISORY COMMITTEES. Field accountability should be assured through the establishment of two support advisory committees; one which will identify substantive and skills training needs and

determine how to address those needs; and another directed to establishing legislative/administrative and litigation priorities and projects.

RECOMMENDATION #8

OVERSIGHT. An oversight committee should be established to assure that MLS implements the recommended organizational changes by September 1, 1996.

RECOMMENDATION #9

NATIONAL SUPPORT. Field programs should commit to set aside sufficient resources — to be spent in a manner determined by each program consistent with its support needs and case priorities — to ensure that program needs for national support in substantive areas of the law are met in a cost effective manner.

RECOMMENDATION #10

COORDINATION OF EFFORTS. The State Bar, Michigan State Bar Foundation, and LSAM should coordinate their efforts, on the national and the state level, to secure that both adequate funding and a full range of legal services are available for the poor.

DIVERSIFICATION

For the past fifteen years, the LSC has imposed restrictions on certain types of advocacy using LSC funds. Some restrictions add additional internal review and reporting requirements for certain types of advocacy (e.g., appeals); others flatly prohibit certain types of advocacy (e.g., redistricting litigation). Other funding sources (including Michigan's IOLTA and Filing Fees funds) carry some advocacy restrictions as a condition of receiving the funds.

The proposed FY 1996 restrictions on LSC advocacy greatly expand the areas where advocacy will be restricted or will not be permissible. These restrictions create two types of challenges to the Michigan delivery system: 1) providers have ongoing cases and matters for current clients that they may not be able to continue after January 1, 1996 and 2) there are some areas which will be restricted after January 1 where a need for advocacy on behalf of the poor will continue to exist. These problems are addressed in the following recommendations.

RECOMMENDATION #1

SURVEY OF PENDING CASES. An immediate survey should be taken of all LSC-funded programs to determine the number, complexity and status of all current projects and cases which may be categorized as activities no longer permissible with LSC funds.

RECOMMENDATION #2

SURVEY OF POTENTIAL PROVIDERS. An immediate survey should be undertaken to identify these resources, and assess their willingness, ability and experience in undertaking these activities.

Other resources may exist to provide some of these services.

Those groups include, but are not limited to MSBF, LADA, MPA, and MLS. In addition, some other non-profit legal services providers exist which could undertake some of these activities. At the current time, there is not a list of such agencies, nor an analysis of their willingness to undertake these activities, and if so, within what strictures (geographic, substantive, or the like).

Pro Bono attorneys should be recruited to undertake some of the activities which may be categorized as restricted or prohibited in the future. This effort should include recruitment, training on cases which may be fee-generating, and education in relevant areas of the law, e.g., public benefits law.

RECOMMENDATION #3

NEW ENTITIES TO PROVIDE FULL SERVICES. Every effort must be undertaken to find new entities to provide services which are critical to low income persons but may not be permissible utilizing LSC funds. To the extent that such entities cannot be identified prior to January of 1996, efforts must be made to assure that some programs exist which can facilitate the creation of such entities.

RECOMMENDATION #4

RESOURCES FOR NEW ENTITIES. Resources should be earmarked for non-LSC entities to assure full coverage of the legal needs of poor clients. Sufficient amounts of IOLTA , Filing Fees, and other funds should be set aside for programs that undertake activities that cannot be effectively provided by general service or LSC-funded programs.

ABA STANDARDS/OVERSIGHT

All those involved in the delivery of legal services to the poor wish to assure that high quality services will be provided in a cost effective manner. For the past twenty years, LSC has played a primary role in quality assurance. LSC's role has involved both the development of standards for providers and an active program monitoring function. LSC monitoring has included both a regulatory compliance aspect and a program quality/technical assistance aspect. This monitoring has, in general, involved week long site visits to each grantee on an 18 month schedule.

Under the proposed legislation, it appears that LSC's role in program quality assurance may be significantly reduced or even eliminated. Because of this probability, the planning group made a number of recommendations intended to assure that low income persons in Michigan would continue to receive high quality services delivered in a cost effective manner.

RECOMMENDATION #1

EVALUATION PROCESS. Michigan State Bar Foundation, in consultation with other legal

services funders, should assume a central role in evaluation of its legal services grantees. The evaluation process should include, but not be limited to ABA Standards and LSC Performance Criteria. The evaluation process should include both assurance of compliance (programmatic and financial) and quality enhancement (performance evaluation and technical assistance for preventing/solving problems for individual grantees and to address systemic needs).

RECOMMENDATION #2

EVALUATION STANDARDS. Michigan State Bar Foundation should convene major funders and other stakeholders in Michigan's legal services system (including the United Way of Michigan) to develop meaningful evaluation measures and strategies for grantee programs. The goals in developing these standards are long term systemic goals, e.g., to help improve overall delivery of legal services; to help assure governmental policy makers, funders, the client community and others concerned that adequate oversight exists; and therefore to help maintain support for legal services.

RECOMMENDATION #3

TECHNICAL ASSISTANCE. The Michigan State Bar Foundation should closely monitor grant recipient needs for technical assistance and resources during the transition period as LSC funding reductions and restrictions take effect. MSBF should identify and work with providers and other agencies and organizations to provide appropriate technical assistance and resources as needed.

RECOMMENDATION #4

STATE BAR TASK FORCE. The State Bar should be encouraged to immediately establish the proposed Task Force on Legal Services to address how the State Bar can work toward an improved future for the delivery of civil legal services to Michigan's poor. The work groups and planning committee from this planning process should remain available to assist this task force.

STATEWIDE INTEGRATION/MERGER

The LSC-funded programs in Michigan have benefitted from a relatively high degree of program integration for many years. Since 1988, there has been a standard statewide cross-referral agreement in place to facilitate the transfer of cases between programs. Since 1982 the majority of Michigan programs have been members of the Committee on Regional Training (CORT) a subscription-based training consortium which has sponsored an extensive curriculum of substantive and skills training for its member programs in a three state region. Since 1993, LSAM and the MSBF have jointly sponsored a statewide computerization project for Legal Services in Michigan. Through the project, five programs have been linked in a network since early in 1995. The project expects to have the entire state on line by January of 1996. The Legal Services Association of Michigan was formed in 1981 to act as a single statewide spokesperson for Michigan's legal services programs and to address issues of common concern among the providers.

The following recommendations are made in light of this history of successful collaboration regarding the expansion and improvement of program integration in Michigan.

RECOMMENDATION #1

MERGER. All programs should carefully consider the extent to which collaborative programs and/or merger might improve the services to program clients. All programs are encouraged to engage in discussions of merger and/or integration with each contiguous program and in discussions of possible statewide integration with all providers of services. This might include consideration of the submission of joint applications for a consolidated service area and all programs are encouraged to discuss this option. The LSC-funded Migrant and Native American providers should consider merger with LSC-funded and/or non-LSC-funded organizations.

RECOMMENDATION #2

STATEWIDE INTEGRATION. All programs should be encouraged to participate in programs and projects that enhance the coordination of services on a statewide basis. Examples of past successes are LSAM, the coordinated efforts toward a state filing fees-based legal aid fund, and the MSBF computer project.

Because communication among providers is so important, the MSBF-grantee programs and the MSBF should complete implementation of Phase II of the statewide computer project as soon as practicable.

The programs, in conjunction with the State Bar and the MSBF, should create a statewide legal services resources development position by March 1, 1996.

There should be further study of the feasibility of improved coordination on a statewide basis in the areas of pro bono and general intake. The goals of any program should include coordination between LSC funded providers, LSC funded providers and the Bar, between non-LSC funded providers and the Bar, and between LSC funded providers and non-LSC funded providers.

RECOMMENDATION #3

INTER-PROGRAM INTEGRATION. Each program is encouraged to meet with each contiguous program to explore areas of possible integration of services. The programs should discuss the issues described in the Process recommendation (#5), plus any additional issues identified by the programs.

RECOMMENDATION #4

THE NEED TO MAINTAIN LOCAL SUPPORT. There are many stakeholders in the current legal services delivery system. These include local program clients, local client organizations, local human services providers, local bar associations, local program boards, local program funders, local program staff, local program management, and local program directors. It is important that merger and/or integration discussions include these interest groups and, to the greatest extent possible, address the core concerns of these constituencies.

To the greatest extent possible, any mergers or other significant integration initiatives should proceed on a consensus basis among the involved programs and constituencies. Also, any merger plans should assure programs that local support is to be continued to the greatest extent possible and the local funders should be provided with assurances that local support fully benefits local programs.

RECOMMENDATION #5

PROCESS. Each program should, at a minimum, hold discussions with those programs which are geographically contiguous. Discussions might include the following issues:

1. Should a joint application for LSC funds be submitted ?
2. Should programs be jointly administered, or merely act as pass through for funds ?
3. Should programs be merged ?
4. Should counties be realigned for either LSC or Seniors funding ?
5. Can the programs better coordinate services with any non-LSC funded providers ?
6. Any other issues identified by either program.
7. Can cooperative arrangements be made for:
 - a. payroll
 - b. bookkeeping
 - c. supervision
 - d. training
 - e. fundraising
 - f. purchasing
 - g. computer programming
 - h. fiscal management
 - i. litigation direction
 - j. community legal education materials
 - k. pro se kits
 - l. file storage
 - m. policy development

Programs, at least informally, should discuss questions 1. and 2. above before November 1, 1995. Programs should hold their first formal meeting to discuss the listed issues by April 1, 1996. In addition, each program should assure that appropriate staff are involved in the meeting (i.e. that staff that are open to discussion of collaboration and are able to influence program decisions on these issues attend). For example, the first meeting might include the project director, at least one board member of each program, and other key staff. The programs should schedule follow-up meetings as appropriate and consider a joint report on the full meeting to each program board.

In order to assure a productive meeting, programs are encouraged to share relevant program information (e.g. LSC applications, personnel policies, audits, monitoring reports, etc.) prior to the meeting.

TECHNOLOGY

The Technology Work Group included several individuals who have been active in the joint LSAM-MSBF computerization planning committee for the past two years. That committee has spearheaded the efforts — in both conceptualization and implementation — towards the statewide network. This network, which utilizes the MSBF as the central hub and which has been

operational in one half of the state's legal services offices for the past year, provides e-mail access to all advocates. The network permits shared work on legal documents through a common drive in each office, and will include research and briefbank capability on a statewide basis within the next year. The work group used its experience with the network to develop a multiple-year computerization workplan for the state. It is recognized that full implementation of this technology plan is, in part, dependent on the development of additional resources.

RECOMMENDATION # 1

STATEWIDE E-MAIL SYSTEM. Develop and provide a statewide legal services e-mail system that would provide user friendly e-mail access to every legal services staff member in the state, with a target implementation date of January 1, 1996. The e-mail system should be made an integral part of any state support system. Statewide group addresses should be organized around substantive task forces and maintained by the state support entity. State support should respond to e-mail inquiries from the field promptly and use the substantive group addressing to communicate with the substantive task forces.

Acquire an Internet gateway so that the e-mail system gives the legal services community e-mail capabilities (including file transfer capability) to the outside world including PAI attorneys and other volunteers.

RECOMMENDATION # 2

MINIMUM COMPUTERIZATION STANDARDS. Bring all legal services offices up to the following minimum computerization standards:

- a. A 386 computer on the desk of every full time staff;
- b. Either a Novell or a LANtastic local area network in every office of two or more employees;
- c. Two 14.4 modems per LAN (for e-mail & HandsNet communication);
- d. At least one laser printer accessible to anyone on the network;
- e. One tape back-up system with access to all critical data and programs; and
- f. A CD ROM drive accessible to all casehandlers and support staff (see recommendation #6 regarding computerized research).

RECOMMENDATION # 3

UNIFORM CASE MANAGEMENT AND TIMEKEEPING SYSTEM. Explore, recommend and provide a uniform case management system which will include the capacity to implement: online intake, conflicts checks, timekeeping, case reporting, pro bono tracking, and a tickler system.

RECOMMENDATION # 4

SUBSTANTIVE ON-LINE BULLETIN BOARD/DOCUMENT BANK FOR POVERTY LAW ISSUES. Explore, develop, and implement a centralized computer bulletin board system to serve as a searchable repository for pleadings, briefs, pro se forms, and manuals which can be downloaded for use by legal services and pro bono case handlers and to serve as a forum for substantive poverty law and

procedures issues where questions and responses can be posted and become accessible to legal services and pro bono casehandlers.

RECOMMENDATION #5

AUTOMATED DOCUMENT ASSEMBLY SYSTEM. Explore, recommend, create and provide an automated document assembly system that can pull data from the case management database and dump it into form pleadings created by the word processing software. Use the legal services substantive task forces to develop the forms, and use specialized software (e.g. Hot Docs) to provide the automation.

RECOMMENDATION #6

COMPUTERIZED RESEARCH CAPABILITY. Explore, recommend and negotiate the group purchase of CD ROM legal libraries and updates for each program. Explore reduced statewide pricing for Lexis and Westlaw on-line legal research services.

RECOMMENDATION #7

STATEWIDE COMPUTER TRAINING AND SUPPORT. Develop and fund one or two full-time positions for providing computer training and technical support under the direction of the legal services computer committee. The support person should be employed by a state support entity, the MSBF or one of the programs. Each program and office should designate a Computer Responsible Person (CRP) to act as the front line support for that program/office. The state support person would provide training at the legal services road show, and would train the CRP's in each legal services program, who could then train staff within each program or office. This person would also develop on-line help, videotapes, manuals, and templates.

RECOMMENDATION #8

AUTOMATED INTAKE SYSTEM. Explore, develop, and implement, on a pilot basis, aspects of a centralized computerized intake system that could be used by programs locally or regionally to provide for telephone intake of clients and provide brief advice and referral services, utilizing attorney and non-attorney staff as well as pro bono volunteers. Consideration should also be given to integrating with other systems such as the State Bar Lawyer Referral Service and the Senior Hotline, so that clients who are not eligible for legal services assistance could be immediately referred to other services. Consideration should also be given to developing and utilizing attorneys and in-house counsel at their own location through computer communications technology.

RECOMMENDATION #9

ACCOUNTING SOFTWARE. Explore, recommend, and provide technical support for reasonably priced accounting software which will meet the current needs of legal services programs, including needs in the areas of cost allocation, budgeting, and reporting.

RECOMMENDATION #10

AUTOMATED PHONE AND VOICE MAIL MESSAGING SYSTEM. Explore the use of automated phone and voice mail messaging systems by legal services programs to provide direct access to attorneys by clients once the case has been assigned.

RECOMMENDATION # 1 1

DATABASE OF POTENTIAL FUNDERS. Develop a statewide database and clearinghouse of potential state and national grant funders, with information about grant focuses and grant cycles of the funders, which could be used by legal services programs to apply for funding related to their purposes.

RESOURCE DEVELOPMENT

The turning point that initially led LSC to mandate a state-by-state planning process (and that had previously led LSAM and MSBF to schedule a planning meeting) was the LSC funding crisis. In 1995, LSC provided \$12.8 million to Michigan to support its programs that provide legal assistance to the poor. In 1996, that total will be reduced by 25% or more.

The crisis facing legal services is not strictly short term and fiscal in nature. ABA-sponsored legal needs studies conducted around the nation indicate that only about 20% of the legal needs of the poor were being met before the LSC reductions. Even if LSC funding were being continued in 1996, a planning process aimed to improve coordination among all providers and to assure that a full range of advocacy services was available to the entire low income population would have been necessary and important.

The work group made a number of recommendations aimed at increasing the resources available to provide civil legal services to the poor. However, these recommendations must be read in their context as part of an overall plan — involving resources, expansion of pro bono services, and improvements in the current service delivery system — to expand the availability of civil legal services to the poor.

RECOMMENDATION # 1

COORDINATION OF EFFORTS. The work group suggested many funding sources that might be pursued. However, each of these specific recommendations should be read in light of the recommendation that the SBM, the MSBF, LSAM, and other relevant entities should work in a coordinated fashion, in light of political realities and opportunities, to develop these funding sources. The planning committee recognizes that all of these sources can not be approached immediately or simultaneously. Indeed, the decision to pursue one funding source may preclude an approach to one or more other sources. The decisions as to when and how specific sources will be approached is a decision to be made jointly by the organizations referred to above in the future.

RECOMMENDATION # 2

WORKING WITH THE STATE BAR.

- a. Urge the support of increased filing fees. (See recommendation #4 on legislative funding

solutions, below.)

- b. Make the Pro Bono Standard a mandatory requirement. Allow for a buy out either through cash payment or through work on fundraising for civil legal services.
- c. Suggest a mandatory contribution of \$120 per year for the provision of civil legal services, arguing that it is only \$10 per month. (This suggestion was made as an alternative to subsection (b) of this section.)

RECOMMENDATION #3

SUPREME COURT ASSISTANCE. Examples of such assistance might include:

- a. Urge the Court to change its IOLTA order, releasing all funds to provide civil legal services.
- b. Ask the Court to include in its budget funding for civil legal services. This is possible because the State Legislature gave the Court a lump sum appropriation, allowing the Court to spend the money as it determines.
- c. Ask the Court to amend its IOLTA order as necessary to accommodate any statutory changes contemplated in the legislative solutions identified in recommendation #4.

RECOMMENDATION #4

STATE LEGISLATIVE FUNDING SOLUTIONS.

- a. Explore seeking legislation to require all areas of law and/or law related practices in which funds are held for short periods of time be placed in interest bearing accounts and contribute to the IOLTA collection, e.g., real estate closings.
- b. Explore seeking legislation to amend the abandoned and/or escheated property statutes to allow for a portion of the proceeds of property deemed to be abandoned or escheated to the provision of civil legal representation.
- c. Explore seeking legislation to amend and/or revise the Forfeiture Statute to provide for a percentage of the value or proceeds of forfeited property to be designated to a fund for distribution for civil legal services.
- d. Explore seeking legislation to amend the current filing fees and license bills in order to increase the allocation to the Legal Aid Fund. This could be done by seeking an earlier sunset to the "Court of Appeals Set-aside" from the Legal Aid Fund or by specific legislation to increase the filing fees and licenses to meet the shortfall in FY 1996 funding.
- e. Explore seeking legislation creating a specific allocation for civil legal services from the State's General Fund. Funding criteria and a distribution system similar to that used for IOLTA could be used for allocation of such monies.

RECOMMENDATION #5

FULL-TIME RESOURCE DEVELOPMENT OFFICE. 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. These activities should be combined with general public education and complemented by public relations efforts within and outside the legal community.

- a. Learn from experience of such activities in other states. Invite representatives from these efforts to speak to future work group meetings.
- b. Explore grants for special projects from private and community foundations.
- c. Make contact with corporations, especially their corporate giving departments, through legal departments and other contacts.
- d. Urge general public giving by individuals to help their fellow citizens.
- e. Create special Legal Services alumni “supporter” groups, as well as successful client “supporter” groups.
- f. Maintain contact with local churches, especially ones providing services to client eligible individuals.
- g. Work with the State's public and private law schools, including recruiting future lawyers for pro bono participation, and work/learn from the schools' resource development offices.
- h. Develop a planned giving program for support of civil legal services.

RECOMMENDATION #6

FEDERAL FUNDING. Ask for federal refunding when politics allow.

BASIC COMPONENTS OF AN EFFECTIVE LEGAL SERVICES DELIVERY SYSTEM

THE GOAL OF THE STATE PLANNING PROCESS IS THE ECONOMICAL AND EFFECTIVE DELIVERY OF HIGH QUALITY LEGAL SERVICES TO ELIGIBLE CLIENTS WITHIN AN INTEGRATED DELIVERY SYSTEM THAT ADDRESSES THEIR MOST PRESSING NEEDS.

(LSC Program Letter No. 4, Page 5, 8/31/95)

BASIC COMPONENTS

(Accepted 9/6/95 by the Michigan General Planning Meeting)

1. ACCESS

- A. An intake system that permits clients to access the system and that includes meaningful access during emergencies
- B. An intake system that permits clients to access the system, including socially and culturally isolated populations

2. REPRESENTATION

- A. Trained and skilled advocates
- B. An adequate supervision system for those advocates and program evaluation methods that include client input
- C. A case processing system that promptly addresses client needs and provides either brief service or fuller representation
- D. An adequate administrative capacity to efficiently meet these needs and to effectively communicate with clients, funders and the public

3. ADVOCACY

- A. A 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.

4. FUNDING

- A. A system with adequate funding to meet these needs
- B. A system that uses all resources effectively including federal, state and local funding and pro bono initiatives

MICHIGAN PLANNING TOPICS

September 6, 1995

INTRODUCTION

Legal Services on a national level is facing massive changes. The 104th Congress has voted to cut 1995 (current) funding and is likely to finalize House action taken to severely reduce funding and increase restrictions for 1996 and beyond. While the final outcome of Congressional action is not yet known in detail, there are a number of changes about which we can be relatively certain. These changes would result in the reevaluation of the structure, goals, priorities, and virtually all other aspects of legal services delivery.

Therefore, the Legal Services Corporation (LSC) has requested that each state undertake a planning process for comprehensive, integrated delivery of legal services in the future. LSC has published program letters identifying issues for inclusion in this plan. The National Legal Aid and Defender Association (NLADA) has suggested additional topics. The Michigan Planning Committee has arranged these into the following nine subject areas as a starting point. This list may be supplemented or changed in the course of our September 6, 1995 meeting.

1. SUPPORT
2. RESOURCE DEVELOPMENT
3. STATEWIDE INTEGRATION/MERGER
4. DIVERSIFICATION
5. PRO BONO DEVELOPMENT
6. SERVICE DELIVERY
7. SPECIAL NEEDS GROUPS
8. ABA STANDARDS/OVERSIGHT
9. TECHNOLOGY

1. SUPPORT

It is fairly clear that LSC funding will no longer be made available for state or national support, nor will funds be available for training. The support functions traditionally recognized as essential include: direct advocacy through both litigation and legislative advocacy; supporting field programs and others through coordination, research and advice; production of resource materials and updates for advocates (legal services casehandlers) and clients; and training of advocates in substantive and skills areas of poverty law.

2. RESOURCE DEVELOPMENT

As the federal funds available for the provision of legal services become smaller, and as certain types of advocacy are prohibited for LSC funded programs, it becomes necessary to consider other funding sources which may be available. Many states have undertaken statewide fundraising for legal services in general, or for support functions in particular. These areas may be appropriate for statewide coordination. Resource development and preservation in a time of shrinking funds is a necessary part of any comprehensive plan.

3. STATEWIDE INTEGRATION/MERGER

As the role of LSC and state and national support is decreased, integration of state operations becomes paramount. In addition, as we move to the awarding of grants by competitive bidding, merger of programs may provide more efficient service delivery and allow us to have fewer administrators and more advocates. LSC has requested that this topic be part of the planning process.

4. DIVERSIFICATION

LSC may prohibit a number of activities which are currently necessary for our client community. This list may include tenancy cases in public housing, class actions against governmental agencies, and most public benefits cases where existing law is challenged. It may be appropriate for some grant sources to be given to non-LSC funded corporation(s) to provide those services which LSC funded programs may be unable to provide. A comprehensive state plan for legal services delivery may have to include non-federally funded entities.

5. PRO BONO DEVELOPMENT

The uses of pro bono services have traditionally been limited to having pro bono attorneys who accept cases at no fee. On a statewide basis, participation in pro bono through legal services is limited to about 20% of the bar. As the need for legal services by low income persons increases, the need for assistance from pro bono attorneys will also increase. Because most current pro bono programs rely on case screening and administrative support by LSC-funded programs, the reduction in LSC funds may well cause a reduction in pro bono activity. Effort must be made to increase the level of pro bono participation both in number of attorneys and hours of participation. New and innovative methods of recruiting and using the talents of volunteer attorneys must be developed.

6. SERVICE DELIVERY

As we move into a new era of legal services, we should reanalyze our service delivery mechanisms. Rather than doing business as usual, we should investigate new and alternative methods of providing services to clients. Areas such as telephone intake, Alternative Dispute Resolution, computerized intake and pro se kits must all be considered as part of a comprehensive service delivery system.

7. SPECIAL NEEDS GROUPS

One of the areas of funding which has been eliminated under current proposed legislation is that previously directed at certain special needs groups. These groups include migrants and Native Americans, both of whom have special challenges in obtaining access to justice. In addition, seniors, mentally and developmentally disabled persons, and prisoners have special needs for civil representation. Any plan for legal services delivery in the state should consider provisions for these groups.

8. ABA STANDARDS/OVERSIGHT

As the role of LSC diminishes, the role of other organizations in providing oversight and review becomes more important. The ABA has published standards for the review of legal services providers. LSC has also recently developed extensive performance criteria for legal services providers, although it is unlikely that LSC's reduced administration will be able to conduct the type of evaluation it has in the past. It will therefore be important for us to establish adequate, thoughtful and meaningful oversight of legal services providers. This will assist us in maintaining quality as well as assuring politicians, funders, and others concerned that adequate oversight exists. The method, standards and location of such oversight activities should be determined so that it becomes an integral part of the services delivery system.

9. TECHNOLOGY

The use of technology can be of great assistance in providing for statewide integration of services as well as efficient and effective provision of legal services. A total plan for the possible use of technology should be developed, including communication, training, timekeeping, research, case management, service delivery and other issues.

LEGAL SERVICES PLANNING COMMITTEE

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Michigan State Bar Foundation

Patrick J. Keating, Foundation Trustee

Margaret M. Nichols, Foundation Trustee

Linda K. Rexer, Executive Director

Legal Services Providers

Alan Ells, Michigan Legal Services

Robert F. Gillett, Legal Services of Southeastern Michigan

Edward J. Hoort, Legal Services of Eastern Michigan

LARGE PLANNING GROUP
(Attendees: 9-6-95 and 10-26-95 General Planning Meetings)

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Alan Ells, Executive Director, Michigan Legal Services, Inc.
Michael Figliomeni, Director, Legal Services of Northern Michigan
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Gary Gershon, Executive Director, Michigan Migrant Legal Assistance Project, Inc.
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Robert Harris, Michigan State Bar Foundation, Legal Services Grant Committee
Hon. Michael G. Harrison, President, Michigan State Bar Foundation
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