This workshop was held at the 2017 Equal Justice Conference in Pittsburgh, Pennsylvania

Title:

Building the Culture and Practice of Strategic Advocacy in Civil Legal Aid

Presenters:

Catherine Carr, NLADA Strategic Advocacy Initiative, Philadelphia, PA
Jon Laramore, Indiana Legal Services, Indianapolis, IN
Ed Marks, New Mexico Legal Aid, Albuquerque, NM
Radhika Singh Miller, National Legal Aid and Defender Association, Washington, DC
Maria Thomas-Jones, Legal Aid of Northwest Texas, Fort Worth, TX
David Udell, National Center for Access to Justice, New York, NY

As advocates face renewed threats both to legal aid funding and to other critical programs that serve low-income communities, it is particularly important to think strategically about how to best use resources and deliberately plan advocacy to effectively address the problems clients face. Too often programs get stuck doing the same work they’ve always done or not thinking in new and creative ways about how to focus their work. This session will provide information and examples of how managers can provide leadership to move their work in new directions to achieve broad based and lasting results for clients, and will introduce NLADA’s Strategic Advocacy Initiative.
As demand for assistance escalates and program resources shrink in the current economy, it is more critical than ever for legal services programs to make strategic choices to maximize their impact for low-income persons and communities. Achieving results that both attain the goals of individual clients and improve the lives of others in similar circumstances is not just the responsibility of a handful of aggressive program lawyers. Program leaders, particularly executive directors, need to create and maintain a culture in which maximizing the impact of all program work is a basic expectation. Their stewardship includes ensuring program capacity to foster and support consistent broad-based advocacy. This article presents four legal services leaders’ views of the critical elements for creating an organization whose work is aimed at achieving true “access to justice” — resolving the most dire problems facing individuals, obtaining solutions for those untold numbers of similarly situated persons who cannot or do not obtain assistance, and eradicating barriers that prevent our clients from escaping poverty.

1. Mission and vision statement language captures the importance of seeking lasting change for many.

Achieving lasting change for low-income persons and communities should be an understood and fully embraced expectation throughout the organization. The expectation should be explicitly captured in program mission and vision statements. Those statements should be forged by engaging staff in focused discussions about the purpose and objectives of program work. They must become a constant touchstone for virtually all program decisions, including hiring, resource allocation, fundraising, performance reviews and evaluations of the effectiveness of all program services.

2. The Board understands and actively supports the concept.

Board members educate and garner support from important stakeholders, including community members and leaders, the Bar and the judiciary. Board members’ stature lends credibility to program efforts. Heard in a variety of influential forums, their individual and collective voices should carry the message that the mission and value of legal services is its unique blend of individual and broad impact, grounded in an overarching purpose to help minimize or eradicate poverty. Because broad-based activity can upset the status quo and thus often challenge existing policy makers and officials, the Board needs to throw its weight behind the program’s commitment to broad-based work — to herald successes and defend the program from detractors.

3. Program leaders incorporate expectations for broad-based advocacy into day-to-day management.

Encouragement of broad-based results for program work should be a constant drumbeat. Directors should visibly help staff pursue broad-based endeavors. They must convey the importance of making hard, often painful choices among competing demands and client needs to pursue very clear advocacy goals. They must ensure that advocates do not try to be all things to all people, which often results in diluting the impact of all program work by spreading it too thinly.

4. Legal work managers need time, space and skills to support broad-based work.

Legal work managers should be expected to achieve broad-based results in their work and the work they supervise. Those expectations should be clear when attorneys are promoted and a core element of regular
evaluations. To enable legal work managers to succeed, they must be afforded the opportunity to develop relevant skills to achieve broad-based results (including, for example, the ability and confidence to handle complex litigation or areas of transactional law, effective use of media, techniques for policy advocacy, and mapping or other forms of data analysis). They need time and space to lead their staff in legal work planning, developing and implementing advocacy strategies and provision of consistent oversight, guidance and feedback. Their case loads and administrative responsibilities must be limited so that they can consistently discharge these core responsibilities.

5. Fundraising and grant-seeking is tied to advocacy goals.

   Fundraising should be coordinated with and intended to support advocacy goals to achieve lasting change for clients and low-income communities. Directors should resist commitments that may undercut that effort, including chasing money that curtails flexibility because it is tied to handling an unrealistically high volume of cases, or consistently seeking grants that do not fully fund the work and therefore require staff members to shoulder unrealistic burdens. Directors can help educate funders about the impact and importance of program work to encourage funders to move away from simple numerical objectives and substitute outcomes that measure success in terms of lasting change for clients.

6. Leadership consistently minimizes the false impact/service dichotomy.

   Resistance to the notion that every program should be achieving broad-based results sometimes arises from the misperception that broad-based work comes at the expense of serving individual clients. That is a false dichotomy. Instead, program leaders should send the affirmative message that broad-based results can and should be achieved through all program work, including strategic development of individual cases. For every new case, outreach or community education or other project they undertake, program advocates should ask: “how can I maximize the impact or value of this case/work/matter to help both the client before me and others who are similarly situated?” By asking the question, advocates open the door to strategies that may enable them to make a difference for the untold thousands who are equally entitled to, but do not get, assistance.

7. Engage in periodic strategic planning.

   Broad-based advocacy does not just happen. Planning is necessary to ensure that internal capacity and external relations foster its quality and growth. Planning is necessary to make and implement clear choices about what advocacy can and should be undertaken.

   Strategic planning provides a critical opportunity to review program experience and data to identify unmet needs and emerging trends. Such planning can and should occur periodically on a firm-wide basis and more frequently (and often less formally) at a unit or practice-level. Advocacy planning should include capturing and analyzing the knowledge and data the program and its staff have. IT staff can be invaluable in helping to extract and examine data from case management systems to identify patterns of need and client circumstances, demographic shifts and gaps in services. Planning efforts should be informed by periodic and timely assessments of community needs. Data and needs analyses underscore how broad-based objectives emerge directly from program experience with clients and communities. The identified needs, trends and gaps provide the basis for setting clear goals for program advocacy grounded in the experiences of clients. Staff should develop realistic strategies to achieve the goals and performance measures to assess their success.

8. Broad-based advocacy emerges from deep engagement with the community and understanding of its current and emerging needs.

   Effective broad-based advocacy is not the pursuit of abstract principles, but should be an intentional response to a recurrent need that affects more persons than we can help individually or that provides a benefit to a group or community. To identify these recurrent problems, programs need to be attuned to the composition, interests, trends and shifts in the communities they serve. They must be able to anticipate how external changes in public policy, the local and larger economy, court decisions, and public opinion may affect or provide opportunities for low-income persons. Cultivating on-going relationships with community members and leaders, including those in community organizations, faith-based organizations, social service providers, and local policy makers is the foundation of such deep community engagement. Programs need to adjust their work and approaches in light of what they learn from their on-going community involvement.
9. Avoid the creation of elite units.

All staff should feel a responsibility to promote broad-based advocacy. While a program may chose to develop “support” units or experts to guide more complex advocacy, broad-based advocacy should not be the province of a few. Cultivation of an “impact unit” can drive a wedge between that unit and other staff, eroding morale and reducing overall effectiveness. It can perpetuate the false dichotomy between direct services and broad-based work. Identification of broad-based issues and appropriate responsive strategies emerge from the knowledge of hotline personnel, outreach workers, those involved in community education and those who handle direct services. Non-lawyer staff are often indispensable in forging coalitions with community organizations, gathering critical information from clients, and enhancing the credibility of the program within the communities it seeks to serve.

10. Case acceptance decisions should include consideration of broad-based advocacy potentialities.

At case acceptance meetings, during regular case reviews, and at case closure, the question of whether and how the particular case or effort can or could have achieved broad results should be explored. For every case under consideration, staff should ask how the case offers an opportunity to solve the client’s immediate problem and achieve benefits for others. Those cases that offer such opportunities should be accorded high priority.

11. Program leaders need to provide tangible support for high quality, high impact work.

Program leaders need to place a high priority on training, even in times of tight budgets. Advocates need to develop and hone the skills to conduct aggressive advocacy in all available forums – federal, state and appellate courts, policy arenas, administrative agencies and other tribunals that have an impact on low-income clients. Training should also include effective use of media, legal work planning, management and supervision.

Task forces and other opportunities to confer and strategize with other advocates, both within and without the program on a regular basis, also contribute to the development of creative approaches to advocacy and promote collaborations. Perhaps the most effective training is careful mentoring of less experienced advocates by the most experienced in the program. Program leaders can use their connections with leaders of other programs and in the community to promote opportunities for such discussion forums.

12. Evaluate work and performance.

Predictable and fair evaluations should assess the extent to which the staff member has contributed to broad-based work. Performance reviews should include development and monitoring of a professional development plan that includes the skill building necessary to conduct broad-based advocacy.

Evaluation of the effectiveness of program work is also critically important, to determine whether selected strategies have effectively achieved articulated advocacy goals. Program leaders should make clear that these evaluations are not punitive but designed to help the individual and the organization achieve the highest potential and to identify ways to grow or change. Engraining the expectation of regular assessments and discussion of lessons learned will foster consistent critical thinking about the effectiveness of the work, promote innovation and guard against complacency.

13. Publicize achievements.

Celebrating success is important to recognize the heroic effort that legal aid work requires. Successes should be publicized within and without the program. Public appreciation reinforces expectations, models excellent performance, and encourages others to undertake similar work. Achievements that should be publicized should include well-handled individual cases and other advocacy, not just those that involve litigation or are “splashy.” Directors should consistently convey the message that broad-based results should be achieved in all of our daily work, not just through occasional high profile, complicated litigation.

Appreciate advocacy that is not successful but represents boldness. Leaders need to applaud carefully-considered risks, and they need to convey the message that even the best work may not always succeed.

14. Provide sufficient administrative and managerial support to advocates.

It is tempting to channel resources into advocacy rather than support. However, overly thin support services can undermine the ability to conduct consistently high quality, high impact work. Administrative and support work then becomes the responsibility of advocates (often legal work supervisors). When advocates have too much on their plates, the quality of their legal work may suffer and their administrative, compliance
and supervisory responsibilities may be postponed or ignored.

15. **Hire new staff who share the vision.**

Hiring processes should reflect the organization’s interest in attracting new staff who are drawn to the organization because of their interest in achieving social change. Program leaders should communicate their broad-based vision and expectations at the initial hiring interview, during orientation of new employees and consistently throughout program activities. While organizations need a range of interests and talents in their staff, if a program only hires people who want to help individual clients, it will be difficult to develop a culture of broad-based advocacy.

16. **Be courageous.**

Above all, program leaders must model courage for their staff. Anti-poverty advocacy can involve challenging authority and undertaking uphill battles. It can mean standing up to powerful players who control our funding and, sometimes, our future, to improve the lives of low-income clients and communities. A program director should welcome such opportunities and model a strategic and diplomatic approach to handling adversity with courage and integrity. Talk publicly about the injustices clients experience on a daily basis. Talk about how it is unacceptable to have inadequate housing, schools, health, jobs, public transportation and other fundamental aspects of a just society. Reinforce the idealism that brought you and your staff to legal aid. Keep reminding the community of the urgency of unmet needs. Program leadership that is not cowed by perceived or actual external hostility or internal resistance will command respect and attention and empower staff to press for change, even in the face of daunting odds.

**Conclusion**

Program missions, behaviors and work depend on the messages and actions of leadership. Organizational cultures can be changed. We recommend that programs which wish to shift their work beyond individual casework into broad-based advocacy think about these sixteen factors and incorporate them in their programs. Our resources are scarce and the needs of our clients are immense. Maximizing our impact by learning from our individual casework and clients, and taking on work that can make change that goes beyond the clients in front of us to those whom we do not see, is important. By changing our organizational cultures, we can work towards changing our bigger societal cultures, and thus make a long-lasting difference for low-income and vulnerable people.

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1. Hannah Lieberman is the former Director of Advocacy at Community Legal Services (Arizona) and the Legal Aid Bureau of Maryland. Her current consulting practice focuses on helping legal services programs strengthen the quality and impact of their advocacy. Hannah may be reached at hlieberman.consulting@gmail.com.

This article reflects the work of an outstanding team, to whom the author offers her thanks and heartfelt admiration. The concept originated with Tom Matsuda, Executive Director of the Legal Aid Society of Oregon, and was further developed by Tom, Cathy Carr, Executive Director of Philadelphia’s Community Legal Services, Hannah and Yvonne Mariajimenez, Deputy Director of Neighborhood Legal Services in Los Angeles. They developed these “Top 16 Factors” for a presentation at the NLADA Annual Conference in November 2010, on broad-based advocacy.

2. The dual functions of providing high-quality services to individual clients and achieving results that broadly benefit low-income persons or communities are core expectations for legal services providers, and expressed in both the ABA Standards for the Provision of Civil Legal Aid (see, e.g., Standard 2.6), and the Performance Criteria of the Legal Services Corporation (see, e.g., Performance Area 3, Criterion 4).

3. See n. 1.
STANDARD 2.6 ON ACHIEVING LASTING RESULTS FOR LOW INCOME INDIVIDUALS AND COMMUNITIES

STANDARD

A provider should strive to achieve both clients’ objectives and lasting results that respond to the low income communities’ most compelling legal needs.

COMMENTARY

General considerations

The effectiveness of a provider can be measured by the tangible, lasting results of its efforts on behalf of its clients and the low income communities it serves. Each provider should strive to accomplish meaningful results in all of the legal assistance activities it undertakes. Lasting results can be achieved in several ways: by favorably resolving individual legal problems; by teaching low income persons how to address the legal problems that they face; by improving laws and practices that affect low income persons; and by assisting members of the low income community to become economically self-sufficient.

The legal problems of individual clients often involve the most basic issues of survival. Problems that merely inconvenience persons who have an economic cushion can have enormous long-term consequences for low income persons and can disrupt every aspect of their lives. An unlawful delay or termination of social security benefits may leave a low income person with no money for food, medicine, shelter or utilities. Unlawful repossession of a car may mean a low income person cannot get to work or to necessary medical care. The provider should be able to respond quickly with high quality assistance that favorably resolves these individual problems in a substantial percentage of cases.

Strategic focus

A provider should establish a clear focus for its legal work and for what it seeks to accomplish for and with its clients. Having a strategic focus starts with making intentional choices about what legal work it will undertake, how it will deploy its resources and how it will deliver service. The provider should know what it hopes to accomplish with its legal work so that it can measure if it is successfully achieving desired results for clients.

There are a number of ways in which a provider may maintain a strategic focus that enhances the results achieved for clients. It calls for deliberative decision-making and intentionality at all levels of the provider regarding what the program’s legal work is intended to accomplish. At a program level, the provider may set broad goals for its legal work, such as protecting low income persons’ access to shelter, or fostering the stability and safety of the family. Many providers set broad priorities that provide the
basis for making more specific choices about the acceptance of legal work and the focus in broad substantive areas affecting its clients.


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2006 ABA Standards for the Provision of Civil Legal Aid

Standard 2.6 on Achieving Lasting Results for Low Income Individuals and Communities

The focus of legal work undertaken by a provider is sharpened if the provider deliberately identifies the broadly stated results it seeks to achieve in major substantive areas, or through its projects or specialty units. Thus, a domestic violence unit might identify an objective in its work to be to help its clients find and retain a safe environment in which to live. Identifying a longer term goal than simply obtaining a protective order focuses the unit on more long term results and provides a basis for measuring the success of the work in terms of those results.

In each individual case, the client sets the objective and the practitioner representing the client has a responsibility to pursue that objective. In addition, some providers establish benchmarks regarding what the provider deems to be the most desirable, realistic outcome in cases of a certain type. The benchmarks might vary among offices based on what is realistic, given local circumstances. Experience suggests that setting benchmarks for results in recurring cases tends over time to improve the results achieved.

All types of legal assistance should accomplish results for clients of the provider. A clear strategic focus on the intended results forms the basis for a periodic evaluation of the success of the efforts, and provides the basis making appropriate adjustments, as necessary. In community economic development, for instance, it is important that the provider clearly articulate the objectives intended for the work. The provider should know whether the intended outcome of the work is to create jobs, housing or goods and services, and if a goal is to foster client self sufficiency and independence. Strategies that employ various forms of limited assistance, such as advice lines, community legal education and assistance to pro se
litigants should also be examined to determine the degree to which those who are assisted learn how to help themselves and accomplish meaningful results with the assistance offered.

When a provider engages in a periodic evaluation of its operation, it should measure the degree to which it is accomplishing meaningful results for its clients. A provider that has clear objectives for its work has a solid basis for a meaningful assessment of the results it achieves.

**Systemic advocacy**

In the course of serving its clients, a provider is likely to identify laws, policies and practices that have a detrimental effect on low income persons and that deter it from accomplishing desired results. It will also encounter the efforts of others to change policies and laws in ways that harm the interests of low income persons. A provider should engage, when appropriate, in advocacy that addresses such systemic problems. Advocacy to accomplish systemic change is called for when an issue is likely to recur, affects large numbers of clients and is unlikely to be resolved favorably for individual clients on a one-on-one basis. Advocacy is appropriate to defend the status quo when proposed changes will erode the rights of low income persons or harm the interest of low income communities.

*See* ABA Standards for the Provision of Civil Legal Aid (2006), Standard 7.2 (on Client Participation in the Conduct of Representation).


representation; Standard 3.5 (on Assistance to Pro Se Litigants); Standard 3.6 (on Provision of Legal Information).

*2006 ABA Standards for the Provision of Civil Legal Aid*
Standard 2.6 on Achieving Lasting Results for Low Income Individuals and Communities

Systemic advocacy involves many potential strategies, some of which are relatively low cost and others of which may be costly and long-term:

- **Non-representational strategies.** There are a number of ways outside of direct legal assistance to clients in which a provider may achieve systemic results for the low income community it serves. It might, for instance, participate in bar and judicial committees to improve the accessibility of the courts to low income persons.

- **Systemic impact in individual cases.** At times, representation in any individual case may have a result which has an impact beyond the interests of the parties, including in matters that are appealed. Systemic advocacy is generally based on a deliberate strategy, however, that targets an offending law, policy or practice. A provider may, therefore, deliberately focus representation in many individual cases on a particular policy or practice, with an eye to bringing attention to a particular issue and to compel a change over time.

- **Informal intervention.** It is not uncommon for a practice that is harmful to clients to result from a failure of an agency to apply the law as it is intended or from it establishing procedures that limit low income persons’ access to services offered by the agency. A legal aid provider that is attentive to patterns of decision-making by administrative agencies may be able to identify misapplications of the law or procedures that limit access and bring about a change in the practice by intervening informally with higher placed officials in the agency.

- **Working with coalitions.** A provider might work with a coalition of organizations to address policy issues that affect the low income population. Not all systemic advocacy is adversarial. Providers working with community economic development, for instance, often find that forming alliances with other interests is the most successful way to bring about fundamental economic changes that positively affect a low income community.

- **Media advocacy.** To help create a climate that is favorable to change, some systemic advocacy involves a media strategy that seeks to inform the general public or the low income community of harmful or unfair policies and practices.

- **Affirmative litigation.** There are many laws, policies and practices that if unchallenged, rule out positive resolution of clients’ legal problems. Sometimes they involve laws that on their face are detrimental to the interests of low income persons. Other times, a law or policy, even one designed to protect the interests of the poor, may not be applied uniformly or consistently in accordance with its terms. Sometimes laws and policies that are favorable to clients’ interests are challenged in litigation and need to be defended. To challenge an unfavorable law or to enforce or defend a favorable one on behalf of clients may require complex litigation, sometimes involving complex statutory or constitutional questions.
- **Legislative and administrative advocacy.** Some systemic change can only be accomplished by seeking a legislative change or a change in agency policies, rules, regulations and practices of general application. In addition, many proposed changes in statutes and administrative rules will, if adopted, significantly harm the interests of low income persons and call for advocacy to oppose such changes.

See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 3.2 (on Legislative and Administrative Advocacy).

2006 ABA Standards for the Provision of Civil Legal Aid

**Standard 2.6 on Achieving Lasting Results for Low Income Individuals and Communities**

and call for advocacy to oppose such changes.

Some legal aid providers concentrate their efforts on broad challenges to legal problems confronting many clients. Such efforts can be the most cost-efficient way to utilize the limited resources available to meet the legal needs of low income persons. Repetitive representation of individuals to obtain a limited remedy that does not ultimately resolve a recurring legal problem can be costly and time-consuming. Representation that addresses the basic cause of such legal problems may, on the other hand, ultimately expend fewer resources with more lasting benefits for large numbers of low income persons.

Nevertheless, some systemic representation requires a substantial commitment of resources. A decision to undertake costly systemic advocacy should be made deliberately by the provider and the client, taking into consideration the potential for success; the resources necessary to proceed, balanced against the potential benefit or risk; and the provider's priorities.

All providers should be alert to areas in which they can have a positive impact on policies and practices that have a detrimental impact on the low income communities they serve. Not all providers are organized, however, to undertake complex—and potentially costly—representation that involves broad constitutional challenges, or to engage in administrative and legislative advocacy. Even for those that are able to, resource limitations will preclude undertaking every major case which is presented.

A provider that does not engage in costlier forms of systemic advocacy should, nonetheless, assure that its practitioners undertake adequate research and investigation to advise and counsel their clients regarding the options open to them under the law, and to refer them to other sources of representation, if necessary.
The provider should participate in regional and statewide systems to help assure that all types of representation are available and to be aware of the appropriate place to refer clients it is unable to assist.

*See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 3.2 (on Legislative and Administrative Advocacy).*

*See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 2.3 (on Participation in Statewide and Regional Systems).*

*2006 ABA Standards for the Provision of Civil Legal Aid*
Equal Justice Conference
Pittsburgh, May 2017

Building a Culture and Practice of Strategic Advocacy in Challenging Times

Ed Marks, Executive Director
New Mexico Legal Aid, Inc.
Cases, cases everywhere!

But not a systemic change in sight . . .

- Organizational legacy systems vs. Delivering the results your clients need

- Counting cases vs. Real outcomes

  (1,000 divorces is not much to be proud of if the result includes 995 unemployed mothers one month away from eviction)
If it’s so easy, why doesn’t everyone do it?

- Solving client problems does not always mean court is the best option.
- Breaking down internal management and office structures that discourage innovative and collaboration.
- Supervision as a strategy for motivation and empowerment.
Many offices, one law firm

- Where staff are based vs. What staff can do – the practice group model
- Portability of expertise and motivation
- Communication!
- Planning/Accountability/Timelines
Technology?
I’m not the IT manager!

- You don’t need a quadratic computer with holographic display to answer strategic tech questions:
  - Who are the stakeholders?
  - Who can do this?
  - Data-informed case acceptance?
  - Innovation in pursuit of what results?
Advocacy goals: Pre-launch checklist

- Capacity (including time and expertise)
- Community & bar partnerships – proactive sustainable coalitions
- Visibility & presence in client communities without bricks & mortar
- Leverage existing resources & shared infrastructures
- Streamline administrative burdens
Breaking the mold . . .

- Strategic intake – one size never fits all

- Video conferencing and on-line work spaces for re-defining “office”

- Data mining to find the deeper issues
Leadership at all levels

- Intentional opportunities
- Design advocacy teams to encourage cross-generational and cross-expertise mentoring
- Make sure professional development is prioritized
Questions???

Ed Marks, Executive Director
New Mexico Legal Aid, Inc.
301 Gold Avenue SW
PO Box 25486
Albuquerque, NM 87125-5486
Voice: 505.768.6122
Fax: 505.227.8283
edm@nmlegalaid.org
Here is the Rutgers article link:

Events that Influence Civil Legal Aid Today

**OEO Act in 1964**
- War on Poverty
- Community action
- Newly aggressive practice (compared to voluntary legal aid bar)
  - organize tenants and welfare recipients
  - domesticate courtrooms
  - bring test cases
  - rely on social workers

**LSC Act in 1974**
- Rule of law, not law of streets
- A right of “access” for every individual

**LSC Restrictions in 1996**
- More individual cases
- No class actions
- No statutory attorneys fees*
- No welfare reform suits*
- No legislative lobbying
- No solicitation of clients
- No representation of people in prison
- Only certain immigrants
- No community organizing
- New funds, new friends
- Restriction on all funds
  - separation requirement: affiliates and others

**Justice for All in 2015**
- “100% access” per Chiefs’ Resolution
- Court based “self help”
- Simplification & triage
- Eco-system of institutions
- New technologies
- A new focus:
  - Millions unaware of legal nature of their problem
  - Millions lumping it
  - Millions tackling problems outside courts
  - Millions defaulting
  - Millions alone in court
- Research & Indexing

*subsequently lifted
Ideas Driving Legal Aid Programs Today

1. **Access to justice**
   -- due process
   -- representation
   -- rights

2. **Anti-poverty**
   -- protect interests
   -- reduce poverty

3. **Human dignity**

4. **Community power**
   (“legal empowerment”)

5. **Client-centered service**

6. **Good government**

7. **Social justice**

8. **Run a high quality law firm**

**How do these 8 goals intersect with the following visions?**

- racial justice
- women’s justice
- economic justice
- environmental justice
- disability justice
- criminal justice
- LGBT rights
- Language rights
Do Other, More Personal, Narratives Ever Drive Work?

In addition to visions our institutions are pursuing, some of us may be motivated by more personal narratives, for example:

1. connecting with people and families
2. challenging authority
3. being smartest in the room (impressing peers, family members, selves)
4. exercising leadership
5. prevailing over bullies, holding people accountable, leveling the playing field
6. achieving moral or religious goals
7. defying others' expectations
8. other . . .
Led by NLADA, the SAI trains civil legal aid programs on responding to systemic needs with “broad based advocacy” that accomplishes systemic reform:

1. Individual matters – individual matters may achieve systemic results
2. Group matters – class actions, organizational representation cases, policy advocacy, other tools may achieve systemic results
3. Antipoverty advocacy – initiatives may remove barriers that interfere with efforts of individuals and groups to overcome poverty
4. Power-building – initiatives may assist community based organizations with economic development projects and with other efforts that grow community power
5. Justice system reform – initiatives may expand access to justice.

-- Source: National Legal Aid & Defender Association ("NLADA")
What are Programs’ Priorities?

What categories of cases are present in high volume today?

1. housing
2. family (divorce, child support, neglect, custody, visitation)
3. consumer
4. employment
5. disability
6. immigration
7. civil rights/racial justice
8. environmental justice
9. civil-criminal intersection:
   a. fees and fines in court proceedings
   b. bail denials and bail reform
   c. license suspensions
   d. asset seizures
   e. traffic and other municipal code violations

How should programs prioritize among different categories of cases?
What is the Right Staffing?

What are the pertinent degrees, training, and roles?

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<td>pro bono (lawyers and others)</td>
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<td>6.</td>
<td>court based staff &amp; services (including navigators, technologies)</td>
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<td>7.</td>
<td>staff in other organizations and settings -- federal, state and local government -- social services agencies -- indigent defense service providers -- medical hospitals and clinics -- law schools -- libraries</td>
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How do programs allocate responsibilities among staff with similar and different degrees, training, and roles?
What are the different models?

1. Self-help (including technologies)
2. Public education
3. Advice and brief service
4. Limited assistance
5. Full representation in individual cases
6. Systemic litigation – appeals, precedent setting cases, group representation, class actions, justice system reform
7. Systemic policy advocacy

How do programs choose between the models?
What is AtJ?
What is AtJ Research?

Definition of Access to Justice:

- individuals and groups,
- can learn about their rights,
- can protect their interests (home, family, financial security, safety, more),
- before a neutral and non-discriminatory decision-maker,
- in a formal or informal process,
- that determines the facts,
- applies, interprets and shapes the law, and
- enforces the result.

Six Questions for Research:

I. What are people’s unmet legal needs?
II. Is the policy a best model, in theory?
III. Is the model present, and fully implemented?
IV. Does the model achieve its goal in the case?
V. Does the model improve life of individual?
VI. Does the model reduce poverty in society?

Methodologies:

1. Survey “need” and “satisfaction”.
2. Map policies (Justice Index, justiceindex.org).
3. Track “outcomes” through case management
4. Conduct randomized control trials.
5. Examine whether individuals can perform tasks.
“The Vision Thing”: Ideas Driving Civil Legal Aid

David S. Udell, Executive Director
National Center for Access to Justice, dudell@fordham.edu, www.ncforaj.org

Bob Gillett, Executive Director
Michigan Advocacy Program, rgillett@lsscm.org, www.miadvocacy.org

May 4, 2017
Legal Services and an Anti-Poverty Agenda: A Conflict of Visions and the Need for Their Reconciliation Edward V. Sparer Symposium Issue: Partnering against Poverty: Examining Cross-Disciplinary Approaches to Public Interest Lawyering

Catherine C. Carr

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Carr: Legal Services and an Anti-Poverty Agenda: A Conflict of Visions

LEGAL SERVICES AND AN ANTI-POVERTY AGENDA: A CONFLICT OF VISIONS AND THE NEED FOR THEIR RECONCILIATION

IN TRIBUTE TO ED SPARER

CATHERINE C. CARR

INTRODUCTION

INTRODUCTION

While American legal aid programs have existed for over a century, it was not until the Office of Economic Opportunity (OEO) waged its War on Poverty in the 1960s that legal services were envisioned as a method to challenge and end poverty. While the original legal aid programs were designed to assist the indigent in dealing with particular legal problems, the goal of the new legal services programs was to give poor people a voice and access to the justice system, thereby making structural and systemic changes that would lead to the end of poverty. Unlike the British legal aid system, which paid private attorneys to handle cases for the indigent, OEO planned to create nonprofit legal services programs that would hire staff attorneys funded with government dollars. This would allow the full time anti-poverty lawyers to develop expertise on poverty issues and advocate aggressively on their clients' behalf.

The new legal services vision included a goal of “law reform” for the poor, and in the early days of OEO, law reform proposals were given priority in funding decisions. No longer were legal aid programs being designed to simply respond to the problems that individual poor people brought to intake offices; instead, the programs were to work with low income

2 Id. at 9.
3 Id.
4 Id. at 11.
communities to identify needs and strategically set priorities that protected and advanced the rights of poor people and poor communities as a whole.\(^5\)

While this new incarnation of legal services was established with funding from OEO between 1966 and 1970, legal services programs have found it challenging to maintain the OEO vision in the intervening years. The struggle between the vision of legal services providers as “systems change” agents, working on behalf of indigent client communities to end poverty and its causes, and the contrasting vision of legal services as the means for an individual client with a legal problem to access a lawyer for help with one case, has been a central and ongoing tension in the legal services community.

At some points, it was suggested that the OEO vision of legal services as anti-poverty law reform had died, sacrificed to the simpler goal of individual casework. Indeed, as early as 1976, Edward Sparer wrote, albeit somewhat facetiously, “[t]he War on Poverty suffered political defeat. . .legal services no longer appears associated with social change, but with affording a client a lawyer.”\(^6\) However, in truth, the vision of social change lawyering put forth by the OEO has survived with force and power. While all legal services work has not embodied that vision, it has been central to the struggles, debates, and decision-making in the legal services community throughout the last forty-five years, if only because of its conflict with the competing vision of legal services for individual case representation, and the ongoing attempt to resolve the two goals in a world of limited resources.

In 2011, four decades after the War on Poverty, many legal services programs, staff, funders, and supporters treasure and embrace the idea that their programs seek to end poverty—or, if that is unattainable, at least to address and minimize poverty.\(^7\) At the same time, others have the “legal aid society” goal of assisting people with whatever immediate legal problem they face. In this view, the legal services program is a law firm, not a social change agency, and provides a service: assisting clients with their custody case, their eviction, or their public benefits hearing, and then moving on to the next person who needs help.

I. POLITICS AND THE CONFLICTING VISIONS

The conflict between the two visions affects a wide range of critical decisions in legal services delivery: priority setting, resource allocations, hiring, office structures, lawyer specialization, fundraising, and management approach. And it has frequently been the unspoken story line behind the political and funding struggles of legal services. If a legal services program is to assist indigent persons in making meaningful change through law reform to improve their situation, the program is likely to challenge existing laws, through legislative or litigation strategies. Legal services programs did this early on in the OEO era, and with remarkable success. They won major cases, frequently class actions, in a variety of courts, including landmark decisions in the U.S. Supreme Court, which changed the landscape for poor people seeking justice. *Goldberg v. Kelly* is an obvious example of a seminal U.S. Supreme Court case,

\(^{5}\) Id. at 12.


\(^{7}\) Florence Wagman Roisman, *Aggressive Advocacy*, MGMT. INFO. EXCHANGE J., Spring 2003, at 22 (quoting Florence Roisman, who describes this mission eloquently in a speech she delivered at a NLADA conference in 2003, saying, “We are not ordinary lawyers. We are part of a program with a noble mission. The Legal Services program was created to achieve a particular and precious goal – to end poverty.”).
establishing that a poor person’s constitutional right to due process required a hearing prior to the termination of his or her welfare benefits.\footnote{Goldberg v. Kelly, 397 U.S. 254, 267-68 (1970).}

But success at making change on behalf of the poor challenged the existing governmental structures. Indeed, legal services lawyers were using their government funding on behalf of their clients to sue government entities, overturn legislation enacted by government bodies, and force governmental agencies to change their policies and practices.\footnote{See also Shapiro v. Thompson, 394 U.S. 618 (1969) (holding that welfare recipients could not be denied benefits based on the length of time they had been in the state); Escalera v. N.Y.C. Hous. Auth., 425 F.2d 853 (2d Cir. 1970) (requiring adequate notice, information and some sort of hearing before public housing tenants could be evicted from public housing).} And the powers that be were not all pleased.

The success of law reform work quickly garnered political opposition to legal services. While the idea of representation of the poor as an essential part of the justice system sounds basic, the actual effects of the law reform work were not popular with many politicians.\footnote{As discussed below, one example of a long time consistent opponent to legal services is Ronald Reagan, who, as Governor of California in the 1960s, adamantly opposed federally funded legal services for the indigent. See HOUSEMAN & PERLE, supra note 1, at 14.} The contrast and conflict between representing clients with individual small problems and handling cases that resulted in systemic change were already in play in the earliest years of the OEO legal services model. While President Nixon is often credited with creating our modern legal services system by proposing a bill to establish the independent Legal Services Corporation (LSC) and signing it into law, his vision did not include an anti-poverty agenda.\footnote{HOUSEMAN & PERLE, supra note 1, at 19.} Nixon’s version of the legislation included prohibitions on lobbying and political activities by staff attorneys.\footnote{Id.} The same discomfort with the anti-poverty agenda was evidenced in Congress, where a variety of restrictions designed to limit law reform activities were placed in the House legal services bill before it was passed.\footnote{Id. at 19-20.} Thus, within years of the OEO vision of an anti-poverty movement, there was already strong pressure for a “legal aid” vision of legal services work, rather than a “law reform” vision.

The political push to avoid anti-poverty law reform work has continued since the creation of the LSC. Ronald Reagan came to the presidency with an existing antipathy to legal services, having opposed its work on behalf of migrant farmworkers as the Governor of California.\footnote{Id. at 14-15 (discussing then Governor Reagan’s attempts to prevent California Rural Legal Assistance from receiving federal legal services money).} Reagan had seen the power of legal services to push for change for farmworkers, some of the poorest paid and most exploited of America’s workers, and did not believe that government should be supporting such work.\footnote{Id.} Reagan saw a “judicare” model as an alternative; this model, like the British system, uses funds to pay private attorneys to handle individual cases.\footnote{See id. at 24-25 (discussing efforts to increase private attorney involvement in the provision of legal services to the poor).} Paying private attorneys for representation of individual clients effectively limits legal services work to the “legal aid” model, as there are no full time staff attorneys funded to work on...
larger anti-poverty issues, and there is no vision of giving communities in poverty a voice in the
justice system, nor of prioritizing and addressing the larger challenges or issues that affect poor
people’s lives.

Reagan sought to reduce or eliminate funding for LSC, and Congress eventually went
along with Reagan’s view, slashing the LSC appropriation by twenty-five percent in 1982.\(^{17}\)
Along with the funding reduction, attempts were made in Congress to impose new restrictions on
legal services advocacy to limit certain activities related to law reform work, and to increase bar
association oversight of local programs.\(^{18}\) In 1982, a number of such restrictions on the use of
LSC funds were imposed, including restrictions on the use of funds for lobbying and rulemaking,
and procedural requirements for filing class actions.\(^{19}\)

This political opposition clearly targeted legal representation that resulted in systemic
change; work at the legislative or regulatory level and class litigation, which could assist
thousands of poor people, was unacceptable; work on behalf of a single poor person regarding his
or her problem could proceed. Reagan and Congress believed in access to justice as long as it did
not have much impact beyond the individual clients served.

Despite the 1982 restrictions, many legal services programs continued to see their work
in OEO terms. The heady accomplishments of class actions in the glory days of a sympathetic
U.S. Supreme Court, together with experience in seeing the power of legal advocacy to make
bureaucracies more responsive to poor clients, meant that legal services attorneys still approached
their work with the goal of making larger change for their clients and client communities. Many
of the programs were made up of attorneys who had been hired with this mission in mind, and had
witnessed its power. Legal services support and backup centers, which had been established
during OEO days, encouraged and supported local programs in identifying and pursuing law
reform work, providing legal updates, technical assistance, and substantive legal training.\(^{20}\) While
the 1982 Congress may have sought to transform legal services programs into the individual
services model, most programs effectively mixed individual representation, paid for with LSC
dollars, with law reform work, subsidized by other sources including statutory attorneys’ fees they
collected for successful litigation. For many programs, the mix of individual representation with
systems work was critical to their success; contact with many individual clients and their
problems was the basis for informed and relevant systems change work.

This situation changed drastically in 1996. Like Ronald Reagan, Newt Gingrich came to
power with a clear interest in limiting or, if possible, eliminating federal LSC funding.\(^{21}\) And like
Reagan, Gingrich’s concern was not individual representation of the poor, but rather legislative
and regulatory advocacy and class actions, the work that sought to make broader-based change.
Since the 1982 restrictions on LSC funds did not fully eradicate such work, the Gingrich Congress
broadened the scope of control on legal services providers by expanding and extending the
prohibitions on legislative and regulatory advocacy and class actions. Most importantly, the new
restrictions applied those prohibitions to all funds received by an LSC recipient agency. No
longer could an LSC law office simply segregate its federal monies and do legislative work or

\(^{17}\) HOUSEMAN & PERLE, supra note 1, at v.

\(^{18}\) Id. at 30.

\(^{19}\) Id.

\(^{20}\) The National Senior Citizens Law Center, the National Consumer Law Center and the National
Employment Law Project are examples of these legal services support and backup centers.

\(^{21}\) HOUSEMAN & PERLE, supra note 1, at 35-36 (noting that part of Gingrich’s 1994 “Contract for America”
included the elimination of the Legal Services Corporation).
class action work with foundation funds, attorneys’ fees, or state grants; the work was prohibited irrespective of the funding source.\textsuperscript{22}

This development was powerful and devastating. Suddenly in 1996, programs that saw their work in OEO terms were prohibited from doing most of the activities that addressed the problems of their poor clients in a systemic way. Some programs reacted with structural changes to protect their ability to do the work which had become prohibited, setting up new organizations to receive non-LSC funds, or sending attorneys with class action and legislative experience to other non-profits to continue that work.\textsuperscript{23} But overall, legal services programs now felt compelled to stay away from the types of impact work that traditionally resulted in broad changes for their client communities. Approaching government agencies to advocate for amendments in regulations or legislation that disadvantaged domestic violence victims was no longer permitted; suing on behalf of a class of disabled persons illegally denied Social Security benefits was prohibited; even going to talk to a roomful of low income workers about their legal rights could raise flags because of limitations on “in person solicitation.”

In addition, the support centers envisioned by OEO to assist legal services providers in their anti-poverty work, which had created infrastructure for training, information, and technical assistance to local programs, were defunded by Congress in 1996.\textsuperscript{24} The national organizations that specialized in health law, employment law, consumer law, elder law and other areas, and which had provided assistance, training, and support to legal services lawyers for their systems-oriented advocacy, were forced to find other funding to survive, and many lost staff and struggled to continue their work.

Despite organized efforts by bar associations and legal aid advocates to repeal the 1996 restrictions, after fifteen years, most of them remain in effect.\textsuperscript{25} While there are some permissible ways to continue doing systemic work despite the restrictions, the impact on legal services practice has been huge. Simply the “chilling effect” of knowing that certain activities will bring a legal services program under scrutiny by LSC and the federal Office of Inspector General means that LSC funded programs shy away from work to create systemic change and sometimes mistakenly believe that all systemic activities are prohibited.\textsuperscript{26} New lawyers and managers hired in the many years since the restrictions were imposed no longer even imagine that their agencies have the mission OEO envisioned. Thus, the 1996 Congress found a forceful way to move legal services organizations away from the OEO anti-poverty model and back towards the individual


\textsuperscript{23} See e.g., Catherine Carr & Alison Hirschel, The Transformation of Community Legal Services, Inc., of Philadelphia: One Program’s Experience Since the Federal Restrictions, 17 YALE L. & POL’Y REV. 319 (1998) (discussing the reaction to the 1996 restrictions by Community Legal Services in Philadelphia, rejecting federal funding for itself and dividing up services with Philadelphia Legal Assistance, a new organization which would receive federal funding and be subject to the new restrictions that came along with such funding). See also HOUSEMAN & PERLE, supra note 1, at 41-43 (describing the “dramatic transformation” of legal services following the 1996 funding restrictions).

\textsuperscript{24} See Omnibus Consolidated Rescissions and Appropriations Act, 110 Stat. at 1321 (1996) (allocating money to field programs but omitting any mention of money for support centers).

\textsuperscript{25} The Consolidated Appropriations Act of 2010 repealed the prohibition on LSC grantees from claiming, collecting or receiving attorneys’ fees in cases they litigate, a restriction which had been in place since the 1996 Appropriations Act was passed. Pub. L. No. 111-117, § 533 (2009).

\textsuperscript{26} The Office of Inspector General has a large presence at LSC as a result of a generous Congressional appropriation for that purpose.
representation focus of the early legal aid society days.

Many legal services lawyers with the most commitment to systemic change work reacted to the restrictions by leaving LSC funded programs and finding or founding other agencies in which to work. And the restrictions impacted the ability of legal services programs to attract new lawyers. As LSC recipient organizations turned away from some of their former law reform work, their reputation as creative, aggressive anti-poverty advocacy organizations suffered. This has meant that they are less able to attract some aggressive new attorneys interested in systemic change. Even though many LSC programs continue to engage in permissible systems change work, word is out in some law schools that legal services programs are no longer exciting places to work.27 Because LSC programs cannot initiate the kinds of anti-poverty work they once did, many new lawyers look to work in other public interest law agencies that focus on civil rights or constitutional law, without the federal restrictions.28 The problem is circular; lawyers less committed to systems change advocacy and more interested in helping individual clients go to LSC programs, which then do less of systems advocacy work.

II. LEGAL SERVICES PROGRAMS AND THE CONFLICTING VISIONS

Even before the 1996 restrictions pushed programs receiving federal LSC funds away from class actions, legislative advocacy, and other more systemic anti-poverty work, legal services programs differed greatly in their commitment to the OEO anti-poverty vision. The tension between the two visions was visible in programs’ approaches to priority setting and resource allocation. Did programs put resources into community education, legislative advocacy, and large class litigation, or did they instead see their priority as providing an attorney to every person facing domestic violence, an eviction, or a custody dispute? While larger programs could more easily balance a combination of work, providing both some individual representation and some work to address broader anti-poverty issues, programs with small staffs, or many geographically-dispersed small offices, could not always find resources for work other than handling the immediate issues presented by clients walking in the door.

Some programs faced strong local pressures to see their work as individual representation rather than anti-poverty work. Board members and local government officials often wanted program work which would not challenge the status quo, and judges wanted legal aid lawyers to help out the judiciary by representing otherwise pro se clients in contentious cases in family law or other areas. Funders who wanted to measure outcomes in numbers of people served often pushed programs away from systems advocacy, where successes may be achieved more slowly and are harder to quantify.

Of course, resource questions are central to every legal services program’s work. Throughout their history, programs have suffered from an extreme lack of resources to serve all needy clients. Study after study has shown that programs can meet only about twenty percent of low-income Americans’ needs for legal representation in civil matters.29 As programs look at

27 I have had a number of conversations with law students, new lawyers, and law school public interest coordinators and placement officers noting this perspective on legal services work.

28 It is important to note that I am not suggesting that individual case work is not valuable, compelling, intellectually demanding or exciting, irrespective of the opinion of some law students. As discussed below, in my view, individual casework is an absolutely essential part of the work of an excellent legal services program; approaching that work with an anti-poverty agenda and combining it with systems work of some sort is what makes it most powerful.

29 See generally LEGAL SERVS. CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA, THE CURRENT
their clients’ many needs and set priorities for the use of their limited resources, we would expect the value of work which will have broad impact to be strongly considered. While one attorney can only handle a small number of individual cases in mortgage foreclosure, which demand intensive document analysis and briefing, a class action to challenge a lender’s illegal practices can help hundreds of homeowners, and legislative advocacy to establish a homeowners’ financial assistance fund may help thousands. Assisting one child after another to find housing after they have been abandoned by the foster care system at age eighteen can take just as much time as advocacy with the child welfare agency to adjust its policies and programs to benefit dozens of such teens. A critical, reflective, and flexible approach to lawyering on behalf of the poor with stringently limited resources could easily lead programs and funders to give high priority to advocacy which addresses change to systems, as well as to work which addresses the needs of individuals. Yet, somehow this argument has rarely been raised. Indeed, the political opposition to systems work demonstrates that Congress prefers to provide more funds for individual client work than for systems work, despite the less efficient results.

Of course, while individual work may be “less efficient,” it is also compelling and important. It is extremely difficult for legal services advocates who are face to face with clients in stark circumstances to turn them away from representation, even when the advocates believe that a focus on systems change work would be more effective in the long run. Understandably, legal services staff want to provide help to every woman facing domestic violence, to every family facing eviction, and to every ill senior losing health care. Because the most difficult part of legal services work can be saying “no” to desperate clients, without conscious and careful planning and strategic decision making, it is easy for a program to simply focus on the cases that “walk in the door.”

A decade ago, some legal services leaders thought that the promise of technology provided an answer to limited resources, and they started advocating for “100% access” to legal services. By moving from in-person consultations with clients to telephone “hotline” contacts and using new computer resources, they argued that every single indigent person who needed assistance could now be served. Others saw this as in direct conflict with the anti-poverty mission. If limited resources were focused on some assistance to every person in need (rather than to only the twenty percent whom legal services traditiona


[33] See Ebbott, supra note 30, at 11 (“We must make this a campaign for justice, not merely civil legal services.”).
Most recently, the ABA, judiciary, bar, and legal services leaders have joined together in a national concerted push for a Civil Gideon movement to provide a right to counsel in civil cases “in adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.”34 While legal services providers are strongly supportive of a civil right to counsel, in an era of economic recession and governmental budget shortfalls, some worry quietly that a push for right to counsel will become a new reason for resources to be shifted from systems change and anti-poverty work to individual representation in court proceedings.35

III. CAN WE RESOLVE THE TENSION BETWEEN THE TWO VISIONS?

So what does it mean for America’s legal services programs that the vision of their work is so conflicted? Does it hurt that after forty-five years, leaders, politicians, funders, and even the staff doing the work each day carry varying goals for their work? Is it time to recognize the political difficulties of an anti-poverty agenda and return to the vision of the legal aid societies that legal services should simply provide high quality assistance to individuals in need? Or alternatively, is it time to adopt the vision of the Civil Gideon movement, and make assistance to individuals in adversarial proceedings affecting their most basic needs the priority work? Or can we somehow return to the grand OEO vision of legal services as a means to address poverty in America?

I suggest that the greatest strength of our legal services community lies in our ability to live with the two visions and the tension they produce, rather than choose one side or the other. We best serve our clients when we grapple with the conflict, identify it, and use it to their advantage. Our clients need individual attention, assistance and representation. They come to our offices with particular situations, which are often stunningly difficult and distressing. We must be there to help them deal with their immediate and individual problems, and do that zealously and well.

At the same time, we cannot ignore the bigger systemic issues, which underlie the individual problems we see. To the extent we can step back and make changes that will prevent more people from approaching us with the same problems, we must do so. If we can use our legal skills to assist our client communities so that fewer people end up facing a crisis that requires a lawyer, we must do so. If we can take on advocacy that will reduce the suffering of many hungry children seeking food stamps, or the distress of many seniors seeking medicines they need, or the anxiety of many homeless veterans seeking shelter, then that is our work. We must take it on in addition to, and in coordination with helping the individuals in front of us.

Indeed, it is the information we gather from the hundreds and thousands of clients we help that makes our systemic work so powerful. Because we are exposed to the struggles and problems our clients are facing, because we meet with them, listen to them, and work with them, we can strategically focus our reform work to make the most difference for their communities and

35 See generally DAVID UDELL & LAURA ABEL, NAT’L COAL. FOR A CIVIL RIGHT TO COUNSEL, INFORMATION FOR CIVIL JUSTICE SYSTEMS ABOUT CIVIL RIGHT TO COUNSEL INITIATIVES 8-10 (2009), available at http://www.civilrighttocounsel.org/pdfs/NCCRC%20Informational%20Memo.pdf (discussing anticipated questions of current civil legal services providers about the right to counsel movement including how the civil right to counsel will affect systemic advocacy).
work toward solutions that meet their needs and desires.

How do we do all this, especially with limited resources? As with most of life’s struggles, the answer lies in seeking a balance. The best legal services programs will recognize the power of using the client cases they handle each day as a means to gather both information and inspiration to make larger change. They will realize that the challenge of limited resources in itself mandates an approach that seeks change for many, rather than just for a few. They will constantly and consistently struggle and evaluate their priorities and approaches in view of the two competing goals. On the one hand, they will see the need to give a voice to voiceless communities in the halls where laws are made to improve the future; but they will also understand the need to stand up for the individual who needs a roof over his head tonight. They will recognize the importance of educating and working with groups of clients, to help them work for larger change. They will see that, ultimately, the stories of their individual clients are the stories that will someday change the world. We in legal services, with our clients, can show the way; we will not accept the poverty and distress that we see each day as normal and inevitable. Instead, we must take on as our work both the individual’s problem that results from poverty, and our culture’s problem of accepting and perpetuating poverty. By doing both, we can effect significant, even momentous, change.

There really is no dichotomy between the needs of the clients we see, and the needs of the many more who do not make it into our offices, but whom we can still help through law reform work. As Ed Sparer wrote, “the high quality pursuit of ‘more case services’” will lead “lawyer and client to the need for large social changes.” The difference in the two goals is “mere illusion.”

I do not pretend that this is easy. The political pressures to move away from anti-poverty work which we have experienced over the past decades will continue. The movement for Civil Gideon will help us gain support for legal aid to the poor, but will also complicate the discussion of our already complex mission. And the realities of a global fiscal downturn will impact our access to funds, even as it increases the needs of our clients. But the bottom line is that if we do our jobs well, we will bear witness to the poverty and distress we see each day as we assist our individual clients, and we will go beyond serving them individually to pushing for bigger solutions when we can.

Our “anti-poverty” work will be varied: it may be advocacy for a policy change, organizing a community educational program, advising grassroots organizations, filing litigation to enforce a law, or writing an editorial about injustice. It may simply be demonstrating how to represent a client with excellence in a system that tolerates, and indeed expects, shoddy lawyering for the poor. But it is work that holds close and communicates our conviction that our clients’ daily experiences with poverty and injustice are unacceptable, and that change can and must be made.

Legal services lawyers are in an enviable position. They see the injustices of our society close up, and they have tools to address them. Our waiting rooms and computer case files are filled with stories that illustrate the failure of America to provide the opportunity to succeed for all its children, or to provide justice for its most vulnerable. We can help, through individual service and through efforts for deeper change. Let us take up both visions, struggle with them, carry them, and move forward for justice for all.

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16 Sparer, supra note 6, at 58.
Building the Culture and Practice of Strategic Advocacy

EJC Conference, May 2017

Catherine Carr, Consultant for NLADA SAI Project
Ed Marks, New Mexico Legal Aid
Maria Thomas-Jones, Legal Aid of Northwest Texas
Radhika Singh Miller, NLADA
David Udell, National Center for Access to Justice
Jon Laramore, Indiana Legal Services
What Are We Talking About?

1. Intentional thinking about the choice of work we do
2. Looking for work that uses our limited resources to make the most impact
3. Shifting culture and vision of our work
4. Implementing change through concrete policy, structure, and practice changes
The NLADA Strategic Advocacy Initiative

- Assistance to NLADA member programs
- Using volunteers to visit and advise programs which are ready for change
- Volunteers learn from the visit
- Importance of focus on impact work at a time of “limited” and “self” representation
- Information at http://www.nlada.org/tools-and-technical-assistance/civil-legal-aid-resources/strategic-advocacy-initiative-concept-and
My experience and biases:

- A program that does and values individual client work
- Advocates are engaged with the community that includes, serves and cares about our clients
- Advocates use information from casework and community to identify and take on work with significant impact
- The organization expects and celebrates work which attempts to make broad based change for clients
- Collaboration internally and externally is the norm
How do we make this work happen?

- A Shared Vision and Goals
- Structural Changes
- Cultural Changes
- Leadership messages and modeling
- Priority setting
- Using External Supports
Typical Problems Programs Encounter

- Organizational status quo trumps a new look at what your clients need
- Counting cases vs. looking at outcomes
- Saying no to individual clients
- “Sole practitioners” rather than group strategizing and support
- Lack of ongoing “planning”: conversations about clients, what work to do (and NOT do!)
- Fear of funders, judges, board expectations
Advocates may LOVE this!
Funders may LOVE this! – Your reputation as a change agent is helpful in fundraising
Exciting work attracts excellent staff
Talking about client problems and how to address them is more fun than talking about administrative details
This helps attract and keep great advocates
Implementation Steps

- Lots of conversations!
- Group priority and agenda setting
- Intake priorities and enforcement
- Individual and group work plans
- Supervision systems
- Professional development and training
- Continuous messaging from leaders
- Management structure that makes this work
- Unit/Advocacy structure that makes this work
Things to think about!

- Don’t be stuck with legacy systems, including intake
- Think about case numbers and work to reduce them and their power
- Streamline staff administrative burdens
- Build and use partnerships – pro bono, law school, media, grassroots
- Hold staff accountable
Questions on the NLADA Strategic Advocacy Initiative?

NLADA SAI Info at http://www.nlada.org/tools-and-technical-assistance/civil-legal-aid-resources/strategic-advocacy-initiative-concept-and

Cathy Carr
Legal Aid Consulting
4716 Windsor Ave.
Philadelphia, PA 19143
215-603-0211
carrphila@gmail.com
Further Information

- Check out conference materials which include articles and the ABA Standard 2.6
- NLADA has a Toolkit with lots of information at
  http://www.nlada.org/sites/default/files/pictures/Strategic%20Advocacy%20for%20Lasting%20Results%20Toolkit.pdf