



August 16, 2002

President
John N. Erlenborn

Board of Directors
Douglas S. Eakeley
Roseland, NJ
Chairman

LaVeeda M. Battle
Birmingham, AL
Vice Chair

Hulett H. Askew
Atlanta, GA

John T. Broderick, Jr.
Manchester, NH

John N. Erlenborn
Issue, MD

Edna Fairbanks-Williams
Fairhaven, VT

F. Wm. McCalpin
St. Louis, MO

Maria Luisa Mercado
Galveston, TX

Nancy H. Rogers
Columbus, OH

Thomas F. Smegal, Jr.
San Francisco, CA

Ernestine P. Watlington
Harrisburg, PA

Anne Erickson, Executive Director
Greater Upstate Law Project
119 Washington Avenue
Albany, NY 12210

Thomas Maligno, Director
Career Development
Tauro Law School
300 Nassau Road
Huntington, NY 11743

Andrew Scherer, Executive Director
Legal Service for New York City
350 Broadway, 6th Floor
New York, NY 10013

Re: New York's Plan for Justice and LSC Program Configuration

Dear Anne, Tom and Andy:

I am pleased to advise you that LSC has accepted the configuration recommendation adopted by the New York State Planning Steering Committee and incorporated in *New York's Plan for Justice* submitted to the Corporation July 11, 2002. We appreciate the thoughtfulness and leadership you have brought to New York's planning efforts and wish to thank the entire Steering Committee and all others who participated in the development of the *Plan for Justice*. Last fall we asked you to build upon the strengths of New York's justice community and take it to a new level. We believe the plan positions you to do just that.

Since this letter serves as our official reconfiguration notice pursuant to LSC Program Letter 02-2, let me outline the reasons for our decision and its specifics. Should you desire review of the decision contained in this letter, we direct you to the review process set forth in Program Letter 02-2, and ask that ***any request for review be submitted to LSC within 30 calendar days of the date of this letter.*** Please note that entities or persons seeking review "will be asked to articulate in writing the concerns and objections they have regarding the recommendation of the state planning team in relation to the Legal Services Corporation Configuration Standards." This articulation should accompany the request for review.

Background

Program Letter 02-3, State Planning Configuration Standards, codifies the standards LSC recipients and Designated State Planning Bodies should consider and that the Legal Services Corporation will use in considering the configuration of a state's legal services delivery system. It supports the creation of integrated statewide civil legal services delivery systems which are responsive to the most compelling needs of eligible clients and client communities, ensure the highest and most strategic use of all available resources, maximize the opportunity for clients throughout a state to receive timely, effective and appropriate legal services in the present and in the future, and operate efficiently and effectively.

Program Letter 02-3 builds upon LSC's State Planning Initiative, first begun in 1995 in response to the programmatic changes and budget cuts that were threatening the very survival of legal services delivery across our nation. In 1998, state planning became a key LSC strategy to expand and improve the quality of services available to low-income people. Program Letters 98-1 and 98-6 declared that LSC was no longer limiting its focus on outcomes for clients within and by individual programs, but rather it was interested in justice communities as a whole as they functioned within a given state. It challenged states to examine organizational structures, use of technology, intake systems, resource development, and private bar involvement from a *statewide perspective*.

In January of 2000, the LSC Board of Directors adopted LSC's strategic plan, *Strategic Directions 2000-2005*, which established goals to both dramatically increase the amount and quality of legal assistance. Program Letter 2000-7, issued in response to LSC's strategic plan, underscored the importance of *relative equity* in a state's delivery system. *Relative equity* challenges a state justice community to ensure that regardless of where in the state a client resides, that she or he has more or less the same access to legal services and that the outcomes for that client, including the quality of the service she or he receives, should not be dependent on circumstances of residence. Program Letter 2000-7 also stressed the importance of state capacity to serve client communities in all of their diversity, and of the need for relative equity in the investment of resources throughout the state.

New York Configuration

New York's delivery system currently contains fourteen separate LSC geographical service areas served by grantees ranging in size from LSC's second largest to its fourth smallest. Overall funding of these grantees varies considerably, from a high of over \$30 million to approximately \$500,000. Similarly, funding per person to be served varies widely from nearly \$50.00 per capita to \$18.00.

While acknowledging the many accomplishments and strengths of New York's providers, since 1999 LSC has also consistently questioned whether the number, size and

configuration of programs presents a roadblock to more fully maximizing the effective and economical delivery of high quality legal services to eligible clients throughout the state. As we have stated on several occasions, despite New York's achievements, the range and quality of services to clients varies from program to program, as do the available resources and client access to them. Moreover, there have been no systematic ways within the state to address questions of relative equity, scope, method or quality of services, and to ensure to the maximum extent possible that major components of the delivery system work together and adopt the most effective approaches to serving clients.

In April 2001, LSC accepted a reorganization plan for delivery of legal services in New York City. We also approved the maintenance of a separate LSC service area for Long Island. However, we rejected the plans developed by the upstate grantees to maintain eight separate upstate service areas, and announced our intention to fund no more than three. Key to that decision was the failure of the upstate proposals to reflect a common set of principles or goals for delivery of services. As we explained,

Rather than developing a statewide blueprint, or a set of principles to guide the discussion, New York completely delegated this issue to each region with no mechanism for assuring consistency of principle or process. Not surprisingly, with one key exception, each region went about the question its own way and came to very different conclusions on fundamental points including not only the number of programs and their relationships to each other, but also their relationships to other components of the delivery system, their "governance," their approach to client access, to technology, training, task forces, priorities, resource development and peer review.

In September 2001, New York planners began to expand their state planning body and renew their efforts to plan for the state's future. We welcomed this change and provided technical assistance funds to assist the revived planning effort. As to the issue of configuration, we noted:

...we will carefully consider a different statewide configuration plan ... if the composition of the planning body comports with Program Letter 2001-4, and its configuration plan effectively addresses the concerns we have [previously] raised as well as the criteria established in Program Letters 98-1, 98-6 and 2000-7.

In November 2001, New York's expanded Steering Committee took shape.¹ It developed a vision for an improved delivery system and a six-month plan to broaden public

¹ The Steering Committee was expanded from 12 to 24, to include representation from the Judiciary, additional private bar representation, a client member, a community-based organization representative and two provider staff representatives. As newly constituted, the Committee also contains executive representatives from LSC and non-LSC providers, pro bono programs, law schools, state support centers, the Rural Law Center, and the

and financial support for it.² One component of that plan was the development of a new statewide configuration of LSC providers. To this end, a special configuration subcommittee was created, comprised of no LSC program representatives. This workgroup incorporated LSC's Configuration Standards into a set of criteria³ and respectfully welcomed the input and active participation and advice of the LSC programs:

“The Configuration Work Group, and the Steering Committee recognizes and respects the considerable efforts LSC project directors have made thus far to develop a regional and statewide configuration plan. We also recognize that geographic and historical affinities are factors in configuration. However, this is an opportunity for a

National Organization of Legal Services Workers. While not as racially or ethnically diverse as New York, the new Committee does have a good cross-section of upstate, downstate, and cross-state equal justice stakeholders.

² The Steering committee has been extremely conscientious and has ably managed its November 2001 plan. In addition to extensive and time consuming activities to develop a new configuration, the Committee:

- Worked with State Bar leadership and the incoming Bar President to organize an event at the State Bar's Annual Meeting to “Help Create the Vision, Build the Reality” of a full access system;
- Was recognized by the Chief Judge of New York's highest court in her Law Day speech;
- Created a Technology Work Group that produced New York's first ever statewide technology proposal to LSC, endorsed by the Steering Committee, the Judiciary, and other important stakeholders;
- Presented its plan for building a statewide justice community to over 400 participants at the New York State Bar Partnership Conference.

A final element of the November plan will be a “meeting of funders” to rally financial support for the *Plan for Justice*.

³ The Criteria were:

1. A configuration plan that considers clients' compelling needs first, addressing issues of geography, transportation, client diversity, proximity to community services and access to court systems.
2. A configuration plan that maximizes statewide capacities, and includes the potential active participation and inclusion of all of the stake holders in the development of a New York Access to Justice community plan, specifically in the following areas:
 - * expanding resource and funding development.
 - * inclusive training for staff.
 - * coordinated, integrated pro bono activity.
 - * technology, information systems, legal research and practice area resource development.
 - * coordination of legal work, emphasizing client access to a full range of services as needed.
3. A configuration plan that includes a system of regular communication and planning with all stakeholders.
4. A configuration plan that uses administrative resources efficiently, regionally and on a statewide basis, to maximize resources available for direct services.
5. A configuration plan that maximizes existing local and statewide leadership, recognizes the importance of diversity in leadership and prepares new leadership opportunities for staff.
6. A configuration plan that maximizes local capacities, maintains existing local services and expands direct services to under-served client populations.
7. A configuration plan that develops an equitable system of accountability and program review.

fresh look at the issues, and we urge the LSC project directors to think creatively about regional boundaries, in an effort to create a plan that serves our clients needs. As you design your plan we urge you to consider the [Workgroup's] criteria, as well as the Legal Services Configuration Standards. These standards are posted on the Western New York Law Center's Website, (www.wnylc.com) under the Planning Link. The Steering Committee will evaluate and review the LSC project directors' plan based on whether the submitted plan meets the criteria we have set forth here. Therefore please demonstrate in your report how your submitted plan meets the criteria we have established.”

In April 2002, the Steering Committee hosted a two-day facilitated retreat to work on the configuration question. The retreat included the LSC programs, which were asked to and did develop a “consensus plan” for the Committee to consider. That plan was sent to the Configuration Workgroup for further study. A series of charts attached to the *Plan for Justice* demonstrate the Workgroup's adherence to its criteria. In addition to analyzing poverty populations, general funding, geography, transportation and client demographics, alternative configurations are charted against their likelihood to promote:

1. More Local Resources
2. More Services to Clients
3. More/Better Integration
4. Access to Court Systems
5. Enhanced Pro Bono
6. Statewide Resource Development
7. Diversity in Staff and Leadership
8. Regional Planning and Management

This analysis produced a seven-service area configuration for the state – one quite different from the “consensus plan” initially proposed by the LSC program directors, both in terms of the number of service areas (fewer) and designation of regions within the state. In another departure from the “consensus plan,” the Steering Committee proposal also shifts several counties from one grantee service area to another. In the Albany area, for example, three counties previously served by a program in the Central Region, are shifted to the new Northeast Region. Similarly, three counties in the western part of the state previously served by the Rochester based Monroe County program, are shifted to the new Buffalo/Niagara Region.

As finally determined by the Steering Committee, there would be one service area for New York City, one for Long Island, and five upstate service areas as follows:

- **Hudson Valley Region:** Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester Counties

- **Northeast Region:** Albany, Clinton, Columbia, Greene, Essex, Franklin, Fulton, Hamilton, Montgomery, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Warren, and Washington Counties
- **Central Region:** Broome, Cayuga, Chenango, Cortland, Delaware, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, and Otsego Counties
- **Finger Lakes/Southern Tier Region:** Allegany, Cattaraugus, Chautauqua, Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, and Yates Counties
- **Buffalo/Niagara Region:** Erie, Genesee, Niagara, Orleans, and Wyoming Counties

We have carefully reviewed this proposal in light of LSC's Configuration Standards, the *Plan for Justice* and accompanying New York State Planning Self-Evaluation Report and accept it. We believe the new configuration establishes a much stronger platform for client services and the future growth of New York's equal justice system. It appropriately acknowledges geography, transportation, the configuration of allied service providers, other grant streams, and judicial, electoral, and governmental planning districts. By combining many of the smaller service areas, the *Plan* will lead to larger programs with greater capacity to provide a broader range of legal services in every region of the state.⁴

As noted in the *Plan*, programs will now be able to hire or appoint litigation and advocacy directors, something they could not afford previously. Likewise, over time, the new, larger programs can consolidate and enhance administrative and development functions, freeing up experienced lawyers to lend their talents to staff and clients in a variety of ways. The newly configured programs can also take advantage of the traditions of informal staff interaction across program lines, combined with the substantial substantive expertise within programs, to better coordinate legal work and give it new direction where needed.

We note the plans in the Northeast Region to staff a litigation director for two programs where previously there was none. In the Hudson Valley, the *Plan* describes the potential for extension of fundraising, media relations, human resources, and computer support to an area where these functions have been either underdeveloped or costly for one program alone to bear. In the Buffalo/Niagara Region the planners see the "opportunity to strengthen and expand both the coordination of legal work and the full range of services

⁴ When implemented, the *Plan* will lead to six LSC-funded service areas outside of New York City ranging in poverty population from roughly 147,000 to 192,000. If the consolidations anticipated in the *Plan* take place, the smallest of the new programs will have a budget of approximately \$3.3 million and an attorney staff of 23, while the largest will be a \$5.2 million, 52-lawyer program. Most of the new programs will be a little over the median in terms of the size and total funding of LSC's roughly 150 grantees.

though combined efforts [of the experienced staff of three programs].” In the Finger Lakes/Southern Tier Region, combining staff from some of the smallest programs in the country will yield new opportunities for collaboration and leadership. And in the new Central Region, previous experience with joint fundraising, identification of gaps in service and other cooperative efforts will help this region grow as these efforts are integrated and expanded.

Combining LSC service areas will also promote integration of the resulting programs and aid New York in delivering on its goal of efficiently providing a full range of services to all clients in need. Where previously smaller programs lacked capacity and scale on their own to undertake needed investment and initiatives to fulfill the plan’s vision, the new, larger programs will have the ability to be full partners, able to contribute resources and ideas, and implement them. The state is now in a position, for example, to develop regional intake, referral and advice systems that assist in achieving its goal of providing relatively equal access to clients across the state. Initiatives noted in the *Plan*, such as attorney recruitment (particularly with regard to diversity) media relations and statewide resource development, previously unachievable, are also now possible.

While some of the proposed service areas are less resourced than others, we take note of the Steering Committee’s commitment to relative equity and fair treatment for clients statewide, the establishment and activation of a Resource Development Workgroup, and the Committee’s plan to employ statewide resource development staff. We also take note of New York’s strong infrastructure of technological, information and legal support that makes maintenance of this many separate entities more feasible than in other states where such infrastructure is lacking. And, while service delivery plans for each region have not yet been fully developed, we note the Steering Committee’s commitment to guide and support that development in a manner consistent with its principles:

- Deliver coordinated justice services through partnerships with the private bar, government, community groups, private industry and other providers
- Deploy our resources efficiently and effectively
- Assure the full range of services to those in need.

In making its configuration recommendation, the Steering Committee utilized and applied client-centered, statewide criteria. We believe this experience will serve New York clients well as the Steering Committee oversees the development of the intra-region configuration of providers and activities such as development of regional intake systems. It will be important that New York builds upon the statewide approach it has just embraced and avoids over-delegating or defaulting the next steps. We are confident the Steering Committee understands and accepts the continuing leadership role it must play.

We also recognize that much remains to be done to accomplish the restructuring envisioned in this plan and to integrate the providers in each region with each other and the

state as a whole. But we believe the *Plan for Justice* is a very good beginning and the personal commitment and energy with which Steering Committee members, LSC program leaders, and other participants approached the task, augurs well for the future. We salute and note the Steering Committee's commitment to secure pro bono legal and public relations assistance for the newly configured regions, and we stand ready to assist the Committee and our grantees as they move forward. In this vein, we offer the following observations and suggestions which have influenced our approval of the configuration plan and will guide our future funding decisions.

Moving the Plan Forward

Guiding the Statewide Plan

We are pleased the Steering Committee will continue as New York's state planning body with responsibility for continuing statewide planning and implementation. The Steering Committee has played a key role in bringing stakeholders together, creating a vision of the future, and moving forward with it. It has formed important workgroups and will have the benefit of two staffed positions to assist it in carrying out the activities outlined in the *Plan*. The Steering Committee is currently reviewing options and models for a more permanent structure to "ensure that State Planning not only continues, but is enhanced and strengthened." In the meantime, we believe the current Committee has demonstrated its ability to get the job done; and, though some "re-balancing" of its membership may be called for, we believe the Committee can feel comfortable vigorously pursuing implementation and we urge you to do so. By so doing, the Committee will expand those committed to the plan and gain additional experience to inform its choice of future structure.

As you move forward, we encourage you to take advantage of being on the "later" end of the national state planning and reconfiguration process and research best practices, intake and other systems currently being used in other states as well as within your own borders. Through our own connections with legal services providers around the country, we would be happy to support and assist you with suggestions on how and where to seek out the best practices and systems, planned or existing.

Expanding Partnerships

New York's legal services community has a good history of working in partnership to advance client interests. The New York State Bar Partnership Conference, alliances with community economic development groups, involvement with social service agencies in holistic advocacy, are but a few examples. Your recent planning has built upon these traditions and strengthened your partnerships in many ways -- with the Bar, upstate, downstate, cross-state, between and among LSC programs and non-LSC programs, pro bono programs, law schools, line providers and support centers, technology centers, rural advocacy

centers, and more. We hope you will continue to value these partnerships and continue to reach out and welcome new allies. In this regard, we are very pleased that the Workgroups continue to expand their membership, becoming even more inclusive and representative of New York's diversity.

We were also pleased to see the partnership among the programs, support centers and the courts evidenced in the proposal to create a "Court Channel" within LawHelp. We suggest the Steering Committee build upon this partnership and establish a workgroup to develop other ways in which the community can expand and coordinate its access to justice efforts. We are aware of the goals and efforts of Access to Justice Center and pleased to see Judge Juanita Bing Newton's very active role on the Steering Committee. As New York's judicial leadership develops and implements plans for providing information and other resources for self-represented litigants now and in the future, we expect LSC-funded programs to be actively engaged and involved in all such planning and related activities. We also expect programs to include the courts in an active leadership role in their own regional and state planning activities. A workgroup to focus upon self-represented litigants, client outreach and education will support, complement, and help coordinate the courts' efforts with those of other stakeholders. This is an area of focus in LSC's State Planning Program Letters and a notable absence in New York's *Plan*.

Avoiding Fragmentation

The Steering Committee addressed some major concerns we had with previous planning by broadening the group of stakeholders, adopting a stronger statewide focus, and utilizing explicit client centered criteria in decision-making. As noted above, we are particularly pleased with the alliances that have been formed through this process. Taken together these efforts greatly enhance the potential for developing a delivery system that delivers a full range of high quality services throughout the state. But if clients throughout the state are truly to have a good and relatively equal chance for justice, the legal services system must avoid the kind of fragmentation ascribed to the state public benefits system described in the *Plan*.

"Where once stood a relatively uniform system of public assistance in New York now stands a fragmented system of locally-driven policy choices. Similarly situated families now have access to very different levels of supports and services based not on need but on geography...Even the basic availability of core benefits can vary by county."

We note that while some of the Workgroup plans contained in the *Plan* stake out a strong, statewide vision and proceed from a statewide perspective, the delivery descriptions depicted in the regional sections of the *Plan* sometimes read as if they had little or nothing to do with one another. This may be a function of the way the *Plan* is organized, but we

encourage you to exercise strong leadership in guiding the Workgroups and regional delivery choices. Past patterns of autonomous behavior are not overcome overnight, and if New York is to capitalize on the gains made so far, the inclusive, collective approach to client service, so evident during your recent planning, must be reinforced and supported. You may find it of benefit to look at the way your neighboring state of Pennsylvania sets forth the standards and monitors implementation of regional delivery plans to assure a consistent statewide approach.

Securing Resources

The *Plan* clearly identifies permanent state funding as the highest resource development priority. We hope you will not be discouraged by recent set backs in the legislature. Your work over the past twelve months has gained you added support, respect and publicity. Your planned convening of funders can not only help galvanize their institutional support for your efforts, but also gain you another set of allies for the legislative work ahead. Likewise, your upcoming “roll-outs” of the *Plan* provide the opportunity to demonstrate your success and ask for more support. In the next few months, Pennsylvania, Iowa and Texas will be undertaking statewide “branding” campaigns to increase public visibility and support for legal services for low-income people. There will be lessons to be learned from those efforts that will help all states.

As you proceed with your resource development plans, we urge you to give careful consideration to activities that will help the lower funded, predominantly rural regions gain resources. The new LSC configuration plan provides great opportunities to expand *pro bono* efforts throughout the state, and particularly to rural areas, but other resources must also be leveraged for the benefit of under-resourced areas.

Developing New Leaders and Promoting Diversity

We are excited by New York’s commitment to build a statewide system in which staff and leadership are well trained in all aspects of the delivery of legal services and reflect the diversity of the client populations they serve. New York has a proud history of training and support and we are pleased you are building upon it. We support your commitment to providing leadership opportunities and developing diversity at all levels from support staff to Board members, and applaud your decision to staff this effort. You have made diversity and multi-cultural competence strong values in your planning and we look forward to working with you in close partnership in these efforts. In the next year, we would hope to see concrete plans and implementation of systems that assure the next generation of diverse leadership is being identified, trained and nurtured, that programs implement strategies for recruiting diversity in advocacy staff and that all staff are trained in understanding and responding to the multicultural perspectives of their co-workers, clients and client communities.

Assuring Continuing Quality and Performance

We are pleased the Steering Committee is committed “to ensuring that a process of program review and accountability is developed as part of the continuing planning process.” We encourage the Committee to also consider methods for assessing and measuring its own progress towards the goals set forth in the *Plan*. In both cases, the Committee can build upon the state’s extensive experience with the IOLA Fund’s outcome reporting. Introduction of quantifiable measures into the *Plan* can help guide the Workgroups, provide valuable, positive feedback when attained, and point the way for future effort.⁵

We also encourage you to consider how New York can go beyond the IOLA desk reviews and develop an onsite, peer review system. Many New York leaders have experience with peer review and can attest to its value. We encourage you to establish a workgroup to explore this area, and to consider the systems in place in Florida, Ohio, Massachusetts, New Jersey, and Michigan, and in development in Minnesota. As you consider implementing a peer review system we also encourage you to contact the Ohio Legal Assistance Foundation which is utilizing peer review to evaluate Ohio’s delivery system performance as well as individual provider performance.

Conclusion

You have come a long way in the past year. From the restructuring in the City to the plans to reorganize Upstate, expand resources, and integrate and enhance client services and support statewide. You have deepened and expanded your partnerships and positioned the equal justice community to better realize its dreams. Once again, let me thank you and the entire Steering Committee for your efforts in developing *New York’s Plan for Justice*. The New York equal justice community and its clients are fortunate to have your participation and leadership as it moves forward. And we are glad to be your partners.

Sincerely,

Robert Gross
Senior Program Counsel
for State Planning

⁵ As you proceed, we also suggest the Workgroups be charged with developing timelines for their plans. While some Workgroup plans are specific, others are less so. You might also consider scheduling a series of Steering Committee meetings at which the Workgroups and representatives from each reconfiguring region present updates on their progress.

Anne Erickson, Thomas Maligno, Andrew Scherer
August 16, 2002
Page 12

cc: New York LSC Recipient Program Directors
New York LSC Recipient Board Chairs
Hon. Judith S. Kaye, Chief Judge of the State of New York
Lorraine Power Tharp, President, New York State Bar Association
Lorna Blake, Executive Director, The IOLA Fund of the State of New York