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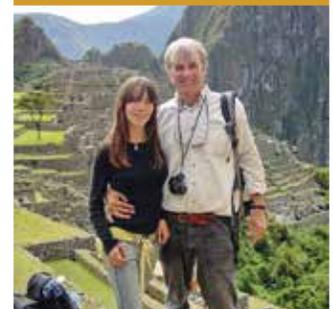
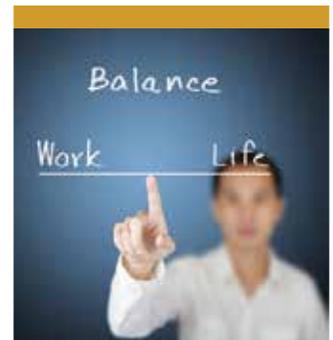
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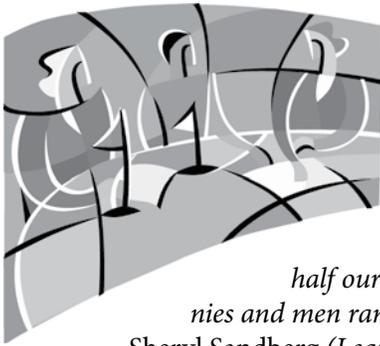
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SPECIAL FEATURE:
Work-Life Balance
in Legal Aid



FROM THE JOURNAL COMMITTEE

Having it All: Or Can We?

“A truly equal world would be one where women ran

half our countries and companies and men ran half our homes.” —

Sheryl Sandberg (*Lean In*)

*“Very few women reach leadership positions. The pool of female candidates for any top job is small, and will only grow smaller if the women who come after us decide to take time out, or drop out of professional competition altogether, to raise children. That is exactly what has Sheryl Sandberg so upset, and rightly so. In her words, “Women are not making it to the top. A hundred and ninety heads of state; nine are women. Of all the people in parliament in the world, 13 percent are women. In the corporate sector, [the share of] women at the top—C-level jobs, board seats—tops out at 15, 16 percent.” — Ann-Marie Slaughter (“Why Women Still Can’t Have it All,” *The Atlantic*.)*

Anne-Marie Slaughter’s article inspired a vigorous discussion online and in the media about gender equality and work-life balance. Slaughter was the first woman director of policy planning at the State Department and left her role in 2011, returning to an academic job in Princeton. She explained in *The Atlantic* that “juggling high-level government work with the needs of two teenage boys was not possible.”

This article, and responses to it (see “Worth a Look!”, p. 23), also inspired a discussion on the MIE Journal Committee about how work-life balance and gender issues have impacted the Legal Aid community. We recruited several great articles from legal aid leaders and we are excited to present them as part of our special feature. These articles represent a wide range of opinion on how legal aid attorneys try to manage their own multiple commitments as well as manage an office or program with staff engaged in similar struggles.

In her article “In the Balance,” Elizabeth Wehner of Legal Aid of West Virginia writes, “...my fifteen years of experience in attempting to maintain a reasonable work-life balance while serving as a legal services attorney, office supervisor, and statewide program manager has been a constantly moving pendulum.” She says that “programs are doing much better than other legal and other professional workplace settings in the United States with regards to family friendly workplace policies, but could be doing more” on issues like self care, burnout and stress. The personal nature of her article makes it especially poignant and relevant.

Joann Lee of the Legal Aid Foundation of Los Angeles ponders “Who Needs Sleep? Thoughts on Community Resilience and Mothering,” and ties her understanding of her clients’ many challenges with her recent experience as a mother and long-term experience as a lawyer. She explains how we can learn a lot from our clients in juggling work and life.

Sharon Browning of JUST Listening expresses her “fierce desire...to help create healthy work environments for my own staff and colleagues,” in “Caring for the Caring: Minimizing Stress and Improving Morale for Your Staff.” She says that stress has major “effects on our bodies, minds and spirits,” and observes that “these are stressful times for the public interest community.” She tells us to “Stop for a moment and consider your own staff,” and suggests that “by being intentional and directive,” we can “minimize the stress of these difficult times and care for the caring people who constitute your staff.”

In other special feature articles, Victor Geminiani of Hawai’i Appleseed reflects on a career of succeeding as a “soldier in the war on poverty” partially because he has been “without a doubt the biggest beneficiary of policies encouraging and supporting workplace flexibility that a legal aid program has ever employed.” But he states that such policies should be “selectively applied.”

Several other legal aid attorneys wrote shorter reflection pieces on Slaughter’s article and the work-life balance conundrum. Among them, Lynne Parker of New Hampshire Legal Assistance tells us to “get outside often” and “try something new;” Dianna Parker of The Legal Aid Society of Columbus encourages us to “nurture” our personal relationships; Debra House of Legal Aid of East Tennessee says we should strive for balance; and, Jenny Lee of Hawaii Appleseed tries to daily “step out of the office and sit under palm trees or see the ocean.”

Finally, we have created a survey addressing the balance of work and family and the practices of legal aid employers. We’d like a few legal aid programs to complete the survey as organizations. Contact MIE Executive Director Patricia Pap at ppap@m-i-e.org to volunteer.

By Dave Pantos
Journal Committee Member



MIE’s mission is to spark excellence in leadership, management and fundraising in legal aid programs serving low income clients, through training, consulting and publishing activities of the highest quality.



PLANNING STRATEGICALLY WHEN TIMES TURN BAD: SOME FOLLOW-UP THOUGHTS AND TWO REAL-LIFE EXAMPLES

By John A. Tull, John A. Tull & Associates¹

This is a follow-up to an article that appeared in the Spring 2009 MIE *Journal*, entitled: “Planning Strategically When Times Turned Bad: Old Lessons and



New Insights.” That article stated the principle on which it was based with these words: “*Decisions about how to respond to current and projected funding cuts need to be made strategically, with an eye toward the intended future of the organization.*” That principle was in

turn based on the underlying, though unstated, belief that when the factors that are leading to reduced funding are at the same time increasing low-income individuals’ and families’ need for legal services, it is all the more important to make deliberate, strategic decisions about how those diminishing resources are spent.

The article noted that there is a natural inclination in the face of impending cutbacks to opt for a strategy of retrenchment which involves “scaling down,” so that the organization is essentially a smaller version of its former self with fewer staff producing smaller amounts of roughly the same work product. The article discussed a different approach, however, which is to plan for “transformational change” that significantly or even fundamentally alters the direction or operation of the organization. Transformational change, it was noted, may be unavoidable if funding cutbacks are so great that it is impossible for the organization to continue operating in the same mode as before. The article went on to suggest that other factors, along with funding cuts, might lead a program to seek transformational change. Program leadership might, for instance, recognize that there are long-standing organizational weaknesses that can no longer be tolerated in the face of reduced resources and increased needs in low-income communities and families. The program may also recognize that with the economic collapse and simultaneous abandonment of many programs for the poor, there has been a dramatic shift in the nature of

the problems facing low-income families and communities calling for new and different responses that in turn require some retooling of how legal aid services are delivered.

This article is about two organizations that undertook a planning process aimed at transformational change in the face of expected, significant cutbacks. Those two organizations are the Legal Aid Society of Hawai`i (LASH) and Montana Legal Services Association (MLSA). It was my privilege as a consultant to work with both organizations as they responded to the fiscal and other challenges they faced. With the permission of both Executive Directors, Alison Paul of the Montana Legal Services Association and Nalani Fujimori Kaina of the Legal Aid Society of Hawai`i, this article highlights the process, challenges and triumphs of those efforts.

The Circumstances Encountered by Both Programs

At first blush, a statewide program located in the highly mountainous, sparsely populated, and frankly huge state of Montana would seem likely to be very different from a statewide program located on the small set of islands that make up Hawai`i, located in the middle of the Pacific Ocean, 2390 miles from the nearest landmass. There are, however, surprising similarities. Each is challenged by access difficulties both for their clients and for program managers; in the case of Montana because of extremely long distances between small cities and towns, and in the case of Hawai`i because of the lack of any transportation other than by air between its eight main islands. Those access challenges complicate intake and service delivery, as well as management of far-flung, or at least difficult-to-get-to, offices.

Legal Aid Society of Hawai`i has an annual budget of a little more than \$6 million while Montana Legal Services Association operates with a budget of a little over \$3 million. When they started the planning

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process, both programs were anticipating funding cuts for the next year in the range of 15 to 20%, with additional cuts projected for the ensuing fiscal year.²

Perhaps the most significant similarity between Legal Aid Society of Hawai'i and Montana Legal Services Association is the fact that both are led by strong, thoughtful and courageous executive directors. The word "courageous" is deliberately chosen, because both Nalani and Alison were willing to take a leap of faith and engage their board and staff in asking fundamental questions about the operation and direction of their programs, when staff and board were already anxious about cutbacks and layoffs because of impending cutbacks. Both held the view, however, that potentially reduced funding heightens the responsibility to be strategically focused in how limited resources are spent and they both believed that their staff and board would embrace a serious conversation about program direction that was grounded in a commitment to long-term program improvement.

The Process

Fact-finding and Analysis

The processes used by both LASH and MLSA were very similar. Both decided to engage the assistance of an outside consultant – in this case, me – who could serve as a knowledgeable, objective third-party observer to assess the program's strengths and weaknesses and to capture the staff's and the board's perspective on the challenges and how to appropriately respond. This portion of the process began with a four day visit to each program to engage in face-to-face (or in a few cases telephonic), confidential interviews with a strong cross-section of board, staff and management.

The purpose and hoped-for outcome of the process were framed in terms of the need to respond to the fiscal crisis by maximizing the capacity to be as strategically responsive to its client communities as possible. The structure of the interviews was aimed at getting staff to focus on the long-term question of what would be most beneficial to the low-income communities and individuals served, not on strategies to save costs or protect jobs, such as furloughs or salary cuts.

In the case of the Legal Aid Society of Hawai'i, the interviews were supplemented by a confidential survey of all board and staff members that elicited their views on "... how to address [the program's] budget shortfall in a way that maximizes our capacity to continue to

respond to the needs of the communities we serve the most effective way possible." The survey began with open-ended questions regarding what constituted the program's most important core functions. Respondents were then asked to indicate how, if Legal Aid's budget were only \$10, they would allocate that amount among various approaches to serving low-income communities, ranging from systemic broad-based work through full or limited representation of individuals to support for self-help and community legal education.

They were then asked to rate the effectiveness of various delivery techniques, such as direct representation, the hotline, web-based legal information and use of pro bono lawyers and to express their view regarding whether, given pending cutbacks, the various approaches should be expanded, left the same or decreased. Finally, respondents were asked to offer suggestions regarding strategies to respond to the cutbacks and how to deal with the possible tension between grant-based obligations and the program's core mission.³

The Idea Session

Although the hallmark of both processes was their transparency, a key step in both involved lengthy, confidential conversations between the executive director and the consultant about potential options to proceed. The goal of the conversations was to provide a space to brainstorm a range of ideas and out-of-the-box possibilities. The conversations gave the directors and the consultant an opportunity to throw out ideas and discuss options – many of which were rejected on analysis, but would have been difficult even to begin to explore in an open forum. While many of the ideas were rejected, aspects of those ideas found their way into the final options presented to the boards of directors of each program.

Written Report and Recommendations

Because the intent of the process was to help identify potential changes in the structure and focus of each program, both executive directors concluded that recommendations for change should come from them, based on the findings of the consultant. Both directors recognized that the consultant's role was to support them in arriving at the right recommendation, not to make a recommendation directly to the board. A report was prepared by the consultant, therefore, that was primarily designed to be helpful in providing analytical support for the executive directors' recommendations. With both programs, the consultant did

explicitly recommend and express his concurrence with particularly sensitive and potentially controversial recommendations.

Common Features of the Processes that Contributed to Their Success

Transparency

Both directors made a judgment early on to be completely forthright with staff about the budget challenges their program faced and about their intent to engage in a process to determine how to respond, including possible major changes in the programs' approach or operation, if warranted. Each program sought wide input from staff members throughout the process regarding what they perceived to be the most important things that the program did for its clients and what was the most important to preserve or even expand.

Full Engagement of the Board of Directors from the Outset

The board of directors of both programs were involved from the outset in the process. The Board of LASH appointed a "Sustainability Committee," made up of members of the board, staff and management, who were charged with the responsibility of making recommendations to the board regarding possible changes.

MLSA began the process with a board retreat in which the board determined how the legal work of the program should be focused given the impending budget cuts. The board voted that the approach that would be emphasized in MLSA's legal work would be direct representation that would potentially have a

broad impact. It also decided that the program should focus on systemic, "impact activities," such as working with the courts to help address the challenge of meeting the needs of unrepresented litigants. At the same time, it decided to phase out the substantial one-on-one support which had been provided by MLSA to self-help litigants.

Speed

Because the process of considering possible transformational change carried with it the potential for layoffs and significant changes in the roles and assignments of various staff members, the executive directors were anxious for the process to move forward as rapidly as possible. Any delay between the fact-finding portion of the process and decision-making by the board was seen as inviting anxiety, rumors and reduced morale. To avoid this, in both cases the process moved with alacrity. With Montana Legal Services Association, the site visit began August 23, 2011 and the Board of Directors met to approve the resulting plan one month later on September 24, 2011. The site visit at the Legal Aid Society of Hawai'i began on February 14, 2012. The Sustainability Committee met nine days later to hear and react to the consultant's report. The Board met only five weeks later on March 21, 2012, to consider the executive director's recommendations.

Outcomes of the Process

A detailed rendition of the decisions made by the boards of directors based on the recommendations of their executive directors is well beyond the scope of this short article and would in any case involve some



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sensitive matters. Nevertheless, it may be helpful to outline briefly some of the highlights of the decisions to convey how significant the changes were that were adopted by each program as a result of this process. Underlying the decision made by each program was an explicit intent to increase the capacity to focus the work of the organization more strategically. Both directors reported that a mind shift toward thinking strategically about every aspect of the organization was the hardest and slowest thing for its managers and staff to achieve. But, each reported a heightened and growing sensitivity on the part of managers and key staff of the importance of such an approach.

To support that strategic change, each program adopted several specific changes.

The Montana Legal Services Association Undertook the Following:

- Created the position of Director of Community Engagement to oversee intake, its AmeriCorps programs and pro bono.
- Created the position of Director of Strategic Focus and Development to assist in fundraising and support efforts to keep the overall program focus strategically on its goals for clients.
- Eliminated the position of Director of Advocacy.
- Adopted a revised salary structure to reflect the new organizational chart, including raising some salaries and reducing others.
- Closed a satellite office and replaced it with a circuit-riding attorney.
- Eliminated a helpline and advice appointment structure and replaced it with a Triage Attorney and more focused advocacy staff.
- Eliminated a self-help law unit.
- Retooled the process for staffing cases to promote more impactful work.

The Legal Aid Society of Hawaii Undertook the Following:

- Reorganized and re-staffed intake.
- Reorganized the internal structure of its largest office in Honolulu to collapse six units into three to improve supervision and reduce the isolation of each specialty.
- Increased training that crosses substantive and unit lines.
- Engaged in an aggressive communication and team

building strategy to draw on the skills of a set of strong office managers and create a solid, engaged Management Team committed to a strong strategic focus for the program.

Closing Observations

It has been a year and one half since the process began in Montana Legal Services Association and a little more than a year since it began at the Legal Aid Society of Hawai`i. Follow-up conversations with both Nalani and Alison revealed some interesting insights.

First, some unexpected good news: for Hawai`i, the expected dramatic reductions in funding were able to be covered by some unanticipated, new funding. LASH obtained an emergency appropriation from the State Legislature of Hawai`i (ah, the joys of living in a state with a supportive legislature). MLSA did experience the expected 15% reduction in funding. However, MLSA also obtained some new unexpected funding from the Attorney General's Foreclosure Settlement. In both cases, the decisions made regarding restructure and redirection of the program went forward.

Second, both directors when first asked about the experience since the board approved their recommendations, expressed frustration with how "slow" the process of implementing the changes and changing the focus of the program had gone. A second call, however, yielded the recognition that, on further reflection, while change was not proceeding as fast as the director had wanted, it had, in fact, moved quite swiftly.

Third, it is easy when shouldering the responsibility for transformational change in the midst of the already heavy pressures of impending cutbacks, frankly, to get tired and experience what one director called "leadership fatigue." There is a lot invested psychically, emotionally and physically in directing change at a deep level in an organization, particularly when that change comes at an intentionally accelerated pace. It can feel as if you are doing it all on your own. On the other hand, what follow-up interviews also showed was that as staff and managers embraced the changes and the values that underlie them, there was a lifting of the leadership burden as more people begin to carry the load.

As one of the directors said: "I feel like I am able to focus more on things that are important for me to do, because more people are carrying the load of leadership."

Now that's a good outcome — in addition to the fact that low-income families and communities are being

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MILLENNIAL ATTORNEYS AND THE TECHNOLOGY SHIFT IN LEGAL AID LAWYERING

*By Kimberly P. Jordan, Assistant Clinical Professor of Law¹
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There can be no doubt in 2013 that the practice of law has undergone great change.² Driven in part by market forces, law firms and legal aid organizations



alike are seeking to do more with less. For new attorneys entering the work force, it is a time of great uncertainty. How organizations respond to these shifts in funding and whether they understand new lawyers' total immersion in technology can impact the bottom line

and office culture. In this article, I discuss today's law graduates and suggest how managers might leverage their new hires in order to avoid misunderstandings and maximize productivity.

Preparation Differences

At the risk of touting my own position as a law school faculty member, law graduates today have many more opportunities in law school to take experiential and skills courses. Beginning in the first year of law school, students at most law schools have extensive training in legal writing. At many schools, students are required to take additional writing requirements in their second and third years. In addition, students are able to take trial practice courses, among other simulation courses.

Even more important than these courses, however, has been the increase in the number of live-client clinics in law school. One study found 1,036 distinct clinics operating at 156 law schools.³ As one would expect, many of these clinics serve legal aid clients. Clinics run the gamut – from immigration to domestic violence to housing to family law to elder law to my own clinic focusing on the representation of juveniles.

Why is it important that managers understand the change in law school curriculum? The students who interview for summer positions and are hoping for an opportunity for full time employment, if serious, have taken advantage of these clinics. They have experience

with interviewing, drafting pleadings, preparing a case for trial, and negotiating settlements. Clinical faculty choose cases and experiences that will have the most teaching value for students, and spend hours of class time teaching basic lawyering competencies. Asking potential employees about their clinical experience will allow them to discuss these important experiences, and will give you an opportunity to gauge their commitment to public interest lawyering.

Generational Differences

Why discuss the preparation that young lawyers receive in law school? Because that education is layered on a foundation that is profoundly different than that of former generations. The baby boomers and young Gen-X-ers entered law practice before “helicopter parenting” was a phenomenon, to be sure, but more importantly, before the massive changes that technology brought to education.

I must confess, I was one to roll my eyes when the idea of teaching to Gen-Y (or Millennial) characteristics was discussed at my first legal educators' conference. But I am now in my fourth semester of teaching and some of those notions have merit. I am not talking about the stereotypes – we have seen articles describing Millennials as lazy, egotistical, slackers.⁴ It isn't true. My students are engaged, hard-working, and smart. However, they did grow up in a different time. They expect instant feedback and are looking for guidance in starting a project. They are used to praise and advancement. Their drive and belief in the quality of their work make them dedicated employees who will enrich the workplace and serve their clients well.

Technology Changes

New law graduates have been using technology in various forms throughout their undergraduate and law school careers. When I graduated from Loyola University Chicago School of Law in 2001, a handful of my peers used laptops in class to take notes, and no one

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used them for exams. Now the norm is that exams are written on student laptops, a trend that has moved to bar exam takers as well.

The practice of law has also moved into the digital age. Many courts across the country are moving to e-filing systems and away from the large clerk storage rooms of paper files. Technology allows the mass storage of data and historical files on a briefcase size device and allows for instant access to facts relevant to the cases at hand. The implication for practitioners is that we need to become more technologically nimble. The use of laptops and tablets in the court room is increasing daily. Apps are being designed for lawyers to better manage their case files, discovery, and court deadlines. The implication, of course, is that law offices have to become more nimble too. Gone are the days when a desk top computer is the only technology a lawyer will want or need.

The importance of the younger generation's comfort with technology cannot be overstated. Of course, most managers and supervisors use their own version of technology, but may still expect that, when it comes to client communication and case management, the (older) more traditional way of doing things (*i.e.*, paper files, letters to clients instead of email, telephone and in person interviews *v.* online chat) is still the best practice for all lawyers. As I will discuss, there are alternatives to consider.

Cell Phones as Tool of Client Communication

I was surprised by my students' willingness to use their personal cell phones to communicate with clients. That was a line I had not crossed in practice: no client received my private number under any circumstances. Because students do not have their own office phone numbers, and because our teenage clients are often unreliable in returning phone messages, students routinely communicate with clients on their personal cell phones. Quickly I realized that students were also texting with their clients and their families. I still believe that personal cell phone numbers should not be shared with clients in real world practice, but what about texting on employer-provided technology? Clear policies on the use of technologies in practice are necessary, but so is some accommodation of integrating new standards. The important elements of client communication include effective communication and appropriate documentation of the communication.

Both can occur when text messages are involved. If the nature of the communication is purely administrative (*i.e.*, scheduling an appointment, reminding a client of a court date), surely a text message can convey the necessary information. Beyond that, documentation of the exchange in the file (either paper or online) is all that is required. Files still need to demonstrate the progression and details of a case.

Online Presence

Navigating new technology can be difficult, and firms may choose to allow those who are more comfortable with living online lead the way. There is no excuse for any organization to not have an online presence. Organizations may have their own website, blog, Facebook page, Myspace profile, online intake system, among others. Legal aid clients have use of smartphones and tablets in rising numbers and many are comfortable communicating with their lawyers via text messaging, email, and online chat. Organizations need to anticipate this and make expectations clear. Attorneys or other staff can take responsibility, with oversight, for updating the online resources with timely information.

Regardless, however, of whether the organization is present online, it is a near certainty that a majority of its employees are online. Is it appropriate for staff or attorneys to friend or communicate with clients over Facebook? How much do managers know about mining an opposing parties' online presence for evidence in an ongoing case? Those attorneys familiar with these sites are looking for evidence and seeking to admit it in courts. Invite an attorney comfortable with social media to lead a discussion at a staff meeting about these issues.

My students have shown me, through their comfort with technology, how to integrate new practices into my lawyering. My experience as a practicing attorney helps them think through the practical uses and documentation requirements when using new methods. My next technology adventure: using an iPad to litigate in Juvenile Court!

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SUPERVISING GENERATIONS

By Robert W. Bush, Senior Staff Attorney, Elder Law Project¹
Georgia Legal Services Program

Journal Committee Note: This was a dramatic reading from MIE's Advance Beyond the Basics: Supervising for Excellence training, written by Robert and performed with a colleague, when this training was held in Atlanta.



R: This portion of the training deals with a “soft” topic that can seem like a waste of time. If we spend our time up here attributing a schematic of personality traits to particular generations like various color wheels, we probably are not doing you a lot of good. Really, this section should address

issues such as:

- why didn't my supervisee say s/he was unhappy before they left?
- do Gen X'ers evaporate at 5 and is that ok? do they REALLY work that efficiently?
- what's the difference between reaching out to these younger generations and simply indulging arrogant little babies?
- JUST REMEMBER, we are talking about real issues, not about a Meyers-Briggs game of who has what personality traits and the formulas for addressing them. Some materials ascribe very specific principles to each of the generational groups. Don't let skepticism about some conclusions prevent you from getting something from the next few hours. We do know that generational differences have thwarted some of our efforts to achieve the level of performance that we desire from our supervisees.

C: (to aud. a beat after R finishes, turns to take his seat) Although I hate to admit this, I will say it: I probably am not the ideal employee to most companies — I don't want to give up my Saturdays, I don't want to work late, and I can't hide my disdain in as yet another pointless meeting.

R: (to aud.) Told you, we got lots to talk about.

C: It is apparent that the older generations have become disgruntled with my generation, but instead of completely assessing our need for personal time, they just vent about our “laziness”. We value our time because time is the only thing we all essentially can call our own; we have learned that every second counts.

R: I don't believe that; are you referencing 9/11? Because, yes, we all felt it, but I don't think that's why you leave early everyday.

C: I think that we, the younger generations, are very aware that in the long run — on our death bed, it won't matter how much is in our bank account, it won't matter if we ended up as a CEO, it won't matter if we stayed until 2 a.m. to finish yet another project plan that never actually goes according to plan. Life is about experiences, growth, and relationships.

R: And paying bills.

C: In a corporation, where we don't see the bigger picture, where we don't get any good direction on the task at hand, where we will have to repeat the same task over and over again because of poor direction, it's easy to see something proactively has to be changed.

R: You guys need TOO much direction; you SHOULD be able to see the bigger picture and I have explained this more times than should be necessary, but you can't seem to take a step without receiving a standing ovation, or a cookie.

C: This generation can say similar criticisms about your generation and the generation before. Every generation has its “weaknesses” if you would call this that. Older generations often seem satisfied with being in the same, often dead-end job for their whole career, never demanding advancement for themselves.

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In any case, the obvious criticism anyone should have regarding the younger generations is that they are a product of the previous generations and how that generation raised their kids. Perhaps the Baby-boomers are the ones at fault for the “weaknesses” of X/Y’s?

R: The X/Y’eres will be in for a rude shock when they really learn the workforce. Only a small minority will be put on the fast track...the rest will be stuck in dead end jobs. Where will their self-esteem be then? X/Y’ers are full of self-entitlement, but have little work ethic. They need to adapt to management, not the other way around.

C: Your comments are full of anger and disrespect and “adulthood”. You are not better than another generation simply because you were around first. If you treat people in reality the way you are speaking now, its no wonder your opinion of them is so low. And their opinion of you, as well. And, I feel that I have to comment on the accusation that we require too much praise. All we’re asking for is when we accomplish a task that you appreciate it. I think that everyone likes to know that they did a project well, whether they’re 20 or 70 years old. Is saying “thank you” so difficult?

R: Thank you for the input. But, do you think your work ethic is comparable?

C: Well, for one thing, overtime is a waste of time. If it takes someone more than their scheduled 8 hours to complete their job then maybe they are incompetent?

R: I don’t believe you fully accomplish your job within an eight hour day. I think that you aren’t getting it, that your job comprises more than explicitly assigned tasks. I need you to be around the office to see that. Maybe I’ll be the one handling the emergencies, or carrying the additional administrative load, or developing a project, but I need you to see me do that—how I do that—a lot of our work breaks ground. Or listen to me do call-backs, you’re gonna have your own. You evolve into this kind of expertise. Wherever you work, you’re going to be expected to serve the organization ultimately, and 100% of your tasks will not be defined, unless the work is menial, for example, data entry, which you say you detest because it’s mindless and repetitious.

C: The problem as I see it is that X/Y’ers use the training that they have, training that Boomers lack and fear: second-nature technological savvy. I am an X’er who’s kept very up-to-date on technology because I see it as the necessity that it is... it’s a useful tool that too many professionals feel is negotiable. It’s not. The world has changed drastically, and it’s not a detriment that X/Y’ers know how to use these new tools. I cannot tell you how many times I’ve been summoned to fix my boss’ computers because they simply didn’t know how to email somebody properly, use their computer’s search function, or convert file formats.

R: It’s quicker to ask you. I didn’t think you minded.

C: This is stuff younger generations were taught in high school, if not earlier, and it’s become a non-negotiable skillset. Your generation had to know how to type. You shouldn’t rely upon us to do something so basic.

R: Wow, I feel old—typing. I bristle at the pandering we continue to do regarding your “technological” superiority. In fact, as young people, you are just doing what young people did with crystal radio sets during the introduction of radio, or with desktop publishing when PCs began to catch on. You are natural tinkerers and explorers of technology but all this means is that you are good at picking up applications that allow you to indulge in literacy-destroying distraction and to fetishize convenience and immediacy.

C: Wow, old people can be bitter! What I see is that Boomers are routinely guilty of avoiding email, text and IM correspondence. They claim it has an abrupt, rude, relationship-ruining downside.

R: I much prefer to see someone’s face or hear someone’s voice.

C: That’s not always practical OR efficient. Instead of making a phone call, hoping to get through, and the resulting miscommunications that occur from such correspondence, and the lack of record of such a correspondence...use a trackable, referenceable medium that guarantees nothing gets lost in the shuffle. Use your “received” receipts and follow up as necessary if you don’t get one.

R: “Referenceable” is not a word.

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REMARKS ON RECEIVING THE DENNISON RAY AWARD

By Gerry Singesen

Journal Committee Note: On December 7, 2012, Gerry Singesen was presented with NLADA's Dennison Ray Award. The "Denny" award honors persons who have provided at least five years of service to the legal services community in staff, client or volunteer capacities. Dennison Ray, who dedicated his professional life to equal justice for the poor, is the former director of the Legal Aid Society of Northeastern New York, Legal Services of North Carolina, and other programs.

Thank you, Cathy and Toby, for those kind words, thank you to the Conference Committee, congratulations to the other awardees, and thank you to the people who nominated me for this award.

I want to start by saying, to each of you — in fact, to most of you in this room — you deserve your own "Denny award." And you will get it if you stay true to your calling.

Yes, I do think it is a "calling" — obviously not always religious — but a calling.

I'll bet you have all suffered through a job interview in which the question was "Why do you want to do this

work?" You have a calling if you had to invent a fancy answer because your instinctive answer was too simple and direct. "I do this work because I must. It fulfills me. For all its challenges and flaws, it is the right thing for me to do. It is my calling."

I knew Denny Ray. He definitely had a calling. It's an honor to be receiving an award in Denny's name.

Denny was a burly, determined man. He is remembered by this award for his brilliant and effective leadership of the Funding Criteria Committee of P.A.G. and for his client-centered leadership of several programs. (If you don't know about P.A.G., ask a neighbor.)

But Denny was not easy to take. He took positions like an army takes a hill — charging all the way. When the issue was justice, Denny brooked no dissent.

We don't honor Denny for being a "nice" guy. We have an award in his name because, when he spoke for justice and equality for people in poverty, everybody listened. When he stood to speak, the room fell silent.

He was a leader for his time, for a young movement seeking to survive despite determined opposition.

Today, in this room, you are the leaders for a different time. Your style and skills need to be, and I think they are, more refined and, hopefully, subtle. Your arena is much more complex and nuanced.

But there are important similarities between then and now.

Then we were building the new structures for the legal system's response to poverty.

Today, with courts finally coming to grips with the tidal surge of litigants without lawyers, we are building the new structures for the legal system's embrace of the "all" in "equal justice for all."

Then we were essentially negotiating with a single institution, the Legal Services Corporation, about issues such as funding equalization and minimum access.

Today we are inventing new concepts of the process that is due while dealing with fifty separate state court systems, most with their own access to justice commissions and all with entrenched court, bar and legislative



Gerry Singesen, center, with award nominators Toby Rothschild, far left, and Cathy Carr, far right; and Lillian Johnson, immediate left, NLADA Board Chair, and Jo-Ann Wallace, NLADA President/CEO.

© DENNISON RAY AWARD
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interests.

Each of you, the legal services advocates of today, must speak just as clearly for justice in this process as Denny did in his time.

And how are things in this, your time? Speaker after speaker reminds us that these are terrible times.

But these things come in cycles. I urge you to take a stance of relentless optimism. Funding will rise again.

Your courageous and creative leadership will find solutions to today's seemingly impossible problems. Your job is to sustain that optimism — for yourself and for those you lead — while you pursue your calling.

How is that done? I'll tell you what helps me:

First, work deeply. Throw yourself whole-heartedly into what you must do. The work will reward your attention.

Second, build things "up." Remember Eleanor Roosevelt's advice: "It is better to light one candle than to curse the darkness."

Third, ask questions in the spirit of Bobby Kennedy, who repeatedly said "Some men see things as they are and ask 'why,' but I dream things that never were and say 'why not.'"

I conclude by saying "thank you:"

- to my parents and their friends, for the calling they helped me find;
- to Jayne Tyrrell, my life partner and teacher, who supports me while being a great leader in her own right;
- to Hope and Molly, who seem to accept and love me even at my preachiest; and
- to my friends, all of you, who share our calling.

Please join me in a relentlessly optimistic stance as we continue this great work.

"I do this work because I must. It fulfills me.

For all its challenges and flaws, it is the right thing for me to do. It is my calling."

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Continued from page 10

C: (barely acknowledges, continues) As for the "relationship" argument, the only people who feel affronted by technological correspondence are those who lack the same skills as the initiator. It's not hard to write "thanks" or use an emoticon to provide subtext. There...relationship saved.

R: I can't type fast enough to prefer instant message as a form of communication over face to face when facetime is available. And if you think a little smiley face cuts the edge of an acerbic or blunt comment, I beg to differ. Listen to you: you're telling me that I'm not polite enough in person, not providing enough verbal encouragement and appreciation, and, yet, you're telling me, you want a pass to convey the same meanings through things called "emoticons"?

C: Both young and old employees have to adjust to each other. I'll give you face time if you learn how to open and answer emails.

R: Wait a minute; I'm the boss, here! If I tell you we'll have face time, we'll have face time! There is a subtle difference between adapting our retainment strategy in order to fit our needs and spoiling a bunch of arrogant egos. X/Y'ers should keep in mind that professionalism and reliability are not an option and young graduates must be educated to learn them.

(C is typing into his phone; R's phone signals an IM.)

R: (reading from his phone as C departs): "Sorry, I gotta get back to work."

- 1 Robert Bush is a senior staff attorney for Georgia Legal Services Program, managing the statewide Elder Action Team, in addition to actively representing clients. He has served as a committee chairman on the Governor's Board of Health Information Technology and Transparency, and currently serves on the Executive Committee of the Chatham County Safety Net Planning Council. He is a past co-chair of the Legal Services Delivery Committee of the American Bar Association's Section of Litigation and he is a member of the Board of Directors of Georgians for a Healthy Future. Robert may be reached at rbush.savannah@glsp.org.



ENHANCED PLANNING: A PRACTICE FOR ORGANIZATIONAL DEVELOPMENT AND GROWTH

By Michael Courville, MA, MSW¹

Questions of growth bedevil organizations of all shapes and sizes. Yet growth can be measured in a variety of ways. Growth does not always mean more



resources, it can mean increased organizational complexity to bring about an intensified impact, or it can mean refining organizational services and staffing to advance a more crystallized mission. The

planning required to bring about such growth is often hard to define and poses a number of sticky questions for directors. Usually the questions stem from a sense that more capacity is needed, but the director is not yet sure to what end or to what extent such growth can be obtained.

Theory and practice on institutional and organizational development in the non-profit sector have frequently pointed to the value of strategic planning as the best process for promoting long-term management and growth. However, a closer look at existing organizational capacities and available resources can help directors make incremental, yet profound decisions to guide organizational growth and sustainability. In the ever-changing sea of economic uncertainty and increased demand that has become the hallmark of the nonprofit sector, organizations need to acquire an agility to modify structure in the face of constantly shifting resource allocations. Such agility can be more readily obtained through an approach to growth and change I call Enhanced Planning (EP).

EP was developed to provide legal services and other nonprofits with a finite and bounded framework for organizational growth. Unlike the din of strategic planning frameworks and practices that emphasize the end point of codified documents or plans, EP focuses on building organizational capacity in ways that allow concrete indicators of growth to be identified, pursued, implemented and experienced. EP is about helping

organizations, and organizational leaders, make clear choices about organizational enhancements (building blocks) that will lead to growth—increased organizational complexity to bring about an intensified impact or refined services to advance a more crystallized mission. EP will provide an organization with a pathway for continuous learning and responsive growth, which enables leaders to set a course for the substantive work of the organization that can be maintained and sustained with integrity, adequate resources and without the loss of direction. In this way, it gently redefines the concept of growth without ignoring the value of good strategy.

EP is a process that takes place within an established organization; it assumes some received capacity and existing structures already exist. EP is about setting the foundation for some planning that will enhance the existing structure and mission of the organization over a shorter time horizon, usually one to two years. It is a totalizing process, in that it requires a rethinking and assessment of how an organization is put together, the pieces and component parts that make it possible for the organization to “get work done” and to have a desired impact on the world. It goes beyond just crystallizing goals, it encourages organizations to take a more 360-degree view of the limits and possibilities for growth as defined above.

EP is an approach to growth and change that helps leadership teams make thoughtful decisions about changes to their organization. EP works best when implemented by a leadership team, or a director working closely with their board of directors. It is less successful when implemented independently by an executive director, other senior staff member, or when imposed by a board committee or external consulting team. If an organization does not already utilize an established leadership team as part of ongoing organizational management, choosing that team is a prerequisite for successful EP (for a good discussion of team development see Bonner, 2009²).

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- Once a team is established,³ EP can unfold over a relatively short time horizon—eight to twelve months on average. While some organizations can complete the process in less time, others may need more time. Here is how EP would unfold over an average time horizon:
- Step 1: Construct your Organizational Pyramid (1 Month)
 - Step 2: Assess Needs and Strengths (1-2 Months)
 - Step 3: Determine Desired Building Blocks for Growth (1-2 Months)
 - Step 4: Develop Growth Plans for Building Blocks, Set Benchmarks (2 Months)
 - Step 5: Communicate and Concretize Implementation Steps (2 Months)
 - Step 6: Implement and Assess Progress (4-5 Months)

The remainder of this article will focus on Steps 1-3 of EP, which are centered around constructing the primary tool of EP: the Organizational Pyramid.

The Organizational Pyramid

I have designed a conceptual tool to help organizations determine where they seek growth and how to identify a fuller view of their capacities. I call this tool the Organizational Pyramid. This conceptual tool

serves as a departure point for a director or a leadership team to reflect upon the current dimensions of their organizational structure and potential areas for growth. Composed of building blocks, which serve as placeholders for capacities, structures and elements of organizational functions, the organizational pyramid presents a structural picture of an organization as it is at one point in time (See Figure 1.0). By laying out the building blocks of their respective pyramid, a leadership team can then determine what kind of enhanced planning they want to embark upon. Different organizations will find they have different pieces of the pyramid already in place; others will identify where they have gaps or where they may consider enhancing or strengthening their organization with new staff skill sets, programmatic structures or management practices.

The building blocks in Figure 1.0 reflect those of a robust, stable mission-driven organization. The pyramid is laid out to emphasize that some organizational elements serve as “focal” points, the vision appearing just outside the pyramid to evoke the sense that it is so ideal that it is almost “above” attainment. The pyramid is then flanked by both a theory of change⁴ and the organizational values, both of which give shape and identity to an organization. The mission, positioned at the top of the pyramid, evokes the importance of having a centered, mission-driven organization. The remaining blocks include a thoughtful placement or order that balances staff and program elements squarely on top of adequate resource acquisition, executive practices and learning practices. Taken together, the blocks of the pyramid provide a sense of what is developed in an organization and how those capacities are dependent upon others being put firmly in place.

The utility of drawing an organizational pyramid is that it pushes a director or leadership team to confront the ways in which the organization has actually developed over the years, and to what extent the structure highlights barriers or possible pathways for new growth. Figure 1.0 provides a departure point for thinking about a well-developed organization. It will serve as a “check” for the leadership team as it begins to look more closely at the internal reality of their respective organization. The pyramid should be drawn in adherence to just a few key tenets:

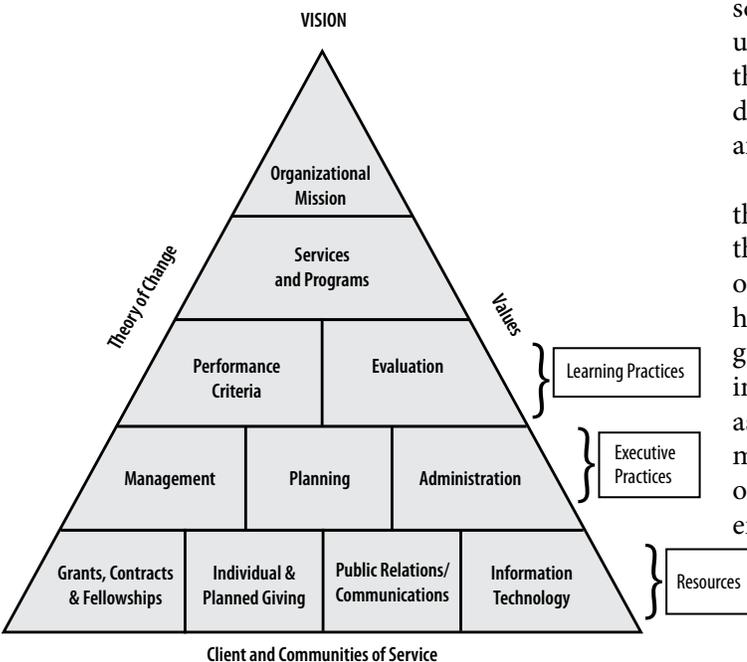


Figure 1.0: The Organizational Pyramid

- The base of the pyramid is made up of blocks that reflect organizational resources. Generally, these include funding sources but the can also include capacities that are

focused on resource leveraging such as information technology, fee for service and volunteer programs, including pro bono services.

- The top of the pyramid should be the location for determining if there is clear mission and vision for the organization, emphasizing the importance of being mission-driven in the overall orientation of the work.
- Executive Practices should be listed alongside one another to maintain a focus on the relationship of these practices to each other, and to emphasize those responsibilities conducted by all managers and directors in any organization, in general and within specific areas of specialization (e.g., human resources, finance, program).
- Learning Practices should be sequenced just above the Executive Practices and include organizational efforts to be responsive to the needs of clients, communities and staff. This includes efforts to acquire information, data or feedback about what goes on in an organization at any level, to identify promising practices, and to determine if there is need for improvement or changes at any level.

A quick look at some organizational pyramids from a handful of legal service and other organizations will help to make this a bit clearer.

Figure 2.0 shows a pyramid for a large legal services organization (Organization A) with a robust

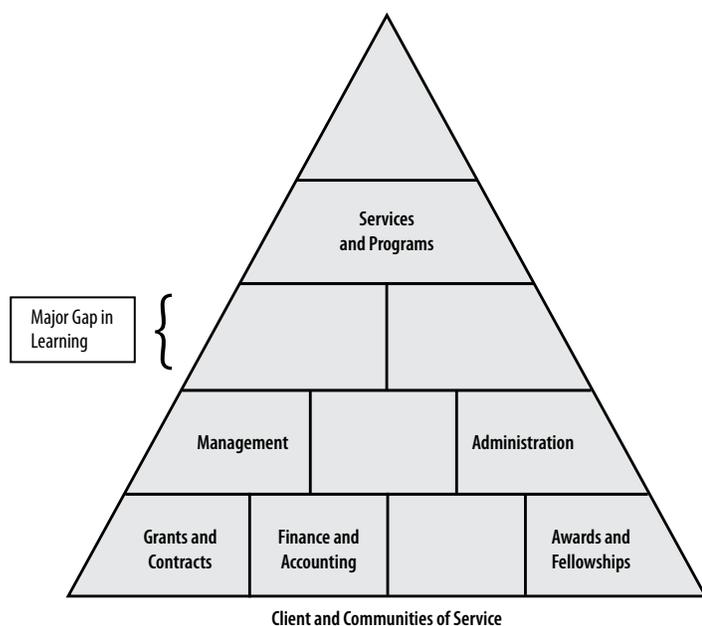


Figure 2.0: Organization A

EP Definitions at a Glance

- **Organizational Pyramid:** A conceptual tool that aids organizational leaders to identify actual and desired capacities within an organization and the developmental relationships between those capacities.
- **Building Blocks:** The component parts of an organizational pyramid, representing specific capacities, practices and structures that shape and support an organization.
- **Excavation:** The practice of revisiting or rethinking an underdeveloped or underutilized building block, which has become less prominent in an organization over time
- **Executive Practices:** The activities of planning, managing, administering and monitoring the direction, activity and health of an organization on a timely, recurring basis. Blocks at this level of the pyramid help create the link between the use of resources, the performance of those using resources, and the direction for new resources.
- **Learning Practices:** The activities within an organization related to understanding the effectiveness of services and programs, the use of data to determine impact, the use of resources, the professional development and performance of those doing the work and the evaluation of overall success in advancing the mission.

history of aggressive impact litigation and limited resource generation. The size of the organization and the emphasis on litigation, in this example, has shaped the pyramid in a way that has little developed the complex management and planning that is required to ensure the responsiveness of programs and services to contemporary community needs. There is an absence of any vision, and the direction of the organization may be unclear for the leadership team, making new resource acquisition that much more difficult to align with program and services. These are all important concerns to be addressed through EP, if this organization wants to see a stable, robust financial future that allows a contemporary cohort of advocates to advance their mission well into the future.

A consideration of a pyramid from a medium-sized nonprofit (Figure 3, Organization B) reveals a different

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structural starting point. In this example, there has been a great deal of attention developing the external dimensions of organizational growth (e.g., the values, the vision, the theory of change) but less attention to learning practices and some gaps in executive practice that would more adequately provide for advancing a clear mission over time with sufficient resources. Some capacities or blocks are less prominent, though in place, and may need some excavation before they can be fully developed. For example, there is some management capacity but it is not intentionally cultivated (denoted in the organizational pyramid by the use of parenthesis). Organization B may decide to excavate further and make that capacity more prominent, dust it off, if you will.

Finally, a pyramid from a smaller legal services organization (Organization C) that describes itself as “stuck” between a desire for growth and a limited set of resources to expand capacity. In this particular example, Organization C has consolidated a great deal of varying skills, practices and structures at the expense of developing more stable, incremental capacity enhancements. The centrally clustered blocks in this pyramid helps an organization identify a tendency to “do more with less” without considering how the “less” can really

do more effectively over time. Resource acquisition is narrowly focused on grants and contracts. If Organization C wanted to pursue new resources such as individual giving, more Executive Practices will be needed to manage new demands for program performance from a wider array of donors. At the same time, some new Learning Practices will need to be phased in to ensure that new resources are balanced with existing information technologies and the existing evaluation programs. The absence of an organizational mission also points to the potential for organizational drift, and even dissolution.

Capacities and Building Blocks

The Organizational Pyramid is a conceptual guide; it is not intended to be an ideal model for generating a prescriptive remedy. It helps to concretize and identify the discrete building blocks within any organization, and then allows a leadership team to determine which additional blocks make sense for the desired growth. Keeping in mind that growth is defined under Enhanced Planning as a dimension of capacities, not necessarily increased staff size, offices or dollars. The level of implementation required to add a block or to reposition an excavated piece of the pyramid would vary by organization. The process of Enhanced Planning allows the team to identify the blocks for growth, and then map out the steps and benchmarks for

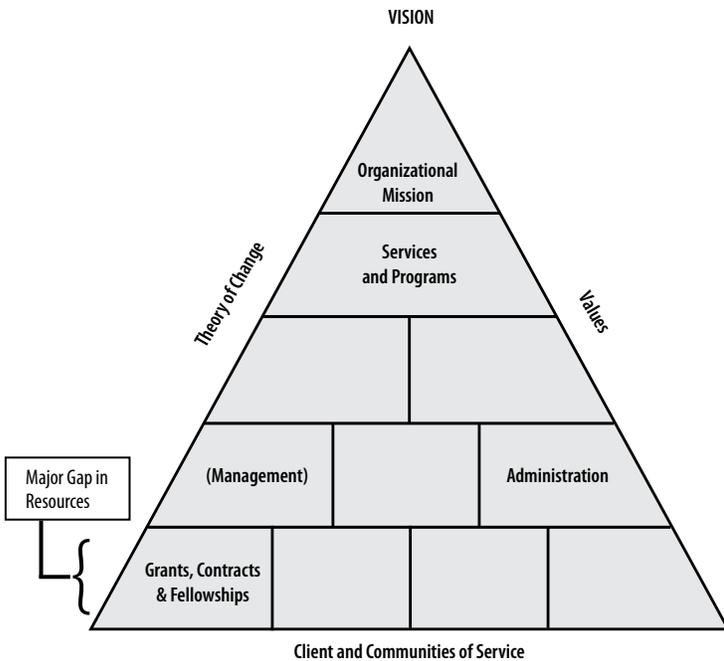


Figure 3.0: Organization B

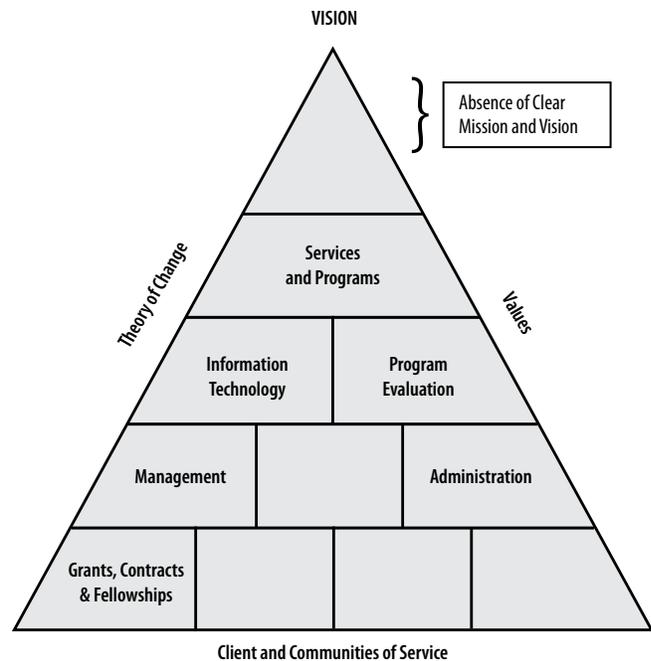


Figure 4.0: Organization C

establishing the new piece of the Organizational Pyramid. The more fully formed a pyramid the stronger an organization, and the more likely that shifting external shocks to the organization can be absorbed and balanced by the more evenly developed structure.

Executive and Learning Practices are often two areas where organizations are under-developed. The high demand for services and the relentless pursuit of funding can make it very hard for organizational leaders to find time to determine strategic growth in these particular areas. EP is one method that facilitates good analysis of organizational need and growth in both areas, without requiring multi-year planning meetings and an over-reliance on external consulting services. The pyramid will serve as a tool that both concretizes planning needs and builds participatory leadership that can bring about the implementation of new practices, the establishment of new capacities or the strengthening of latent structures. Learning Practices can include, for example, the implementation of a quarterly survey tool with field office staff to determine how effective communications were conducted on new policy or change to management practice and how to conduct better internal communications in the future. An Executive Practice related to decision-making and management could include some agreement by the leadership team to adopt a formal decision making protocol (e.g., 5-finger voting) for future decisions to improve organizational capacity to conduct good management practices.

Choosing the right building blocks means taking some time to assess the needs and strengths of your organization, both from the vantage point of your unique Organizational Pyramid and the on-the-ground realities of staff, skill sets, economies and professional development. There are a variety of tools available for conducting a needs assessment or strengths inventory, and for this reason I will not take up space to describe this step in much detail. The results of that inventory or assessment will serve as the menu from which choices will be made around new building blocks. The leadership team will want to look for alignment between the findings of the assessment and the existing or missing blocks in their organizational pyramid. Once an organizational pyramid is established and shared with members of the entire leadership team, a focused discussion can then commence on direction for change and growth.

Growth Revisited

The leadership team can now go about the business

of sequencing and timing the action steps that will be required to develop the chosen building blocks for growth within the organizational pyramid. This is probably one of the hallmarks of EP, because it forces the team to think through the necessary preconditions and requirements for growth that will benefit the organization over a longer time horizon.

EP offers a unique approach to answering questions of growth, while also challenging the commonly held assumption that the end game for organizational growth comes through a quantitative change in resources. EP practices and tools guide and strengthen the holistic thinking of the entire leadership team, cultivating new habits of good planning.

By charting change in a dynamic way that aligns internal capacity with intended growth goals, organizations begin to transform their structures and develop useful practices that promote long-term stability. The action-oriented approach of EP makes it possible to remain strategic and responsive in a constantly shifting world.

For more information about the steps of EP presented here, or the remaining steps not covered in detail, please contact the author.

- 1 Michael Courville is currently Director of Planning and Development for California Rural Legal Assistance. He has over sixteen years of experience as a program and administrative director in the non-profit and public sectors. Michael's work is shaped by an ongoing commitment to promoting human development and creating distributive systems that advance equality in rural areas. He holds graduate degrees in political economy and non-profit management from the University of California, Berkeley. His writing has appeared in *Social Policy*, *The Kappan* and *the Journal of Sociology and Social Welfare*. He most recently served as co-editor of *Promised Land: Competing Visions of Agrarian Reform* (Food First Books 2006). Michael may be reached at mcourville@crla.org.
- 2 Bonner, Leslie. Nonprofit Leadership Development: A model for identifying and growing leaders within the nonprofit sector. Dewey & Kaye. http://www.deweykaye.com/assets/documents/DK_NonprofitLeadershipStudy.pdf
- 3 The age of a team, and the level of trust within that team, will positively impact the efficiency and time required to engage in EP. A newly formed team may take longer to complete EP as their own internal sense of trust and experience working collaboratively will be weaker than

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IN MEMORY OF DENNIS BRICKING

By John Rosenberg¹

The legal aid community lost a devoted and passionate leader and advocate with the passing of Dennis Bricking on January 12. Dennis served as the Executive Director of the Legal Aid Society of Louisville from 1975 to 2004. He spent the first six years of his legal career at the Legal Aid Society as well.

Dennis Bricking and I served together as Project Directors of our respective programs for twenty-seven years. Dennis was always Dennis. Energetic, motivated to do his best for our clients, often funny, sometimes contentious and always ready to get on with the task. He was also a dear friend.

I want to talk first about Dennis' national work. In the legal services community of about 350 legal services programs in the United States, Dennis was one of a few national leaders. Two areas stand out specifically, the Management Information Exchange (MIE), and the Project Advisory Group (PAG). Starting in 1986, Dennis and a small group of visionary directors saw the need for a national organization that would provide workshops, resource materials, leadership and training for project directors in legal services. This small group devoted their time and energy to launching a new organization, and MIE was born. The need for a periodic publication for the membership was soon

evident and Dennis joined the Editorial Board, serving for a time as its chair. The *MIE Journal* has become a fixture in the offices of directors and legal aid managers to this day. MIE, now in its 28th year, with about 300 members, is alive and well; and Dennis' contributions will be long remembered.

Dennis' participation in PAG was equally important. PAG was a loose knit national collaborative of legal services representatives which ensured that field programs and staff who worked in the trenches had input to the Board of the Legal Services Corporation, and to Congress and regulatory agencies if necessary. Dennis was selected by his fellow Project Directors of the Southeast Region to be on the Steering committee of PAG as their representative. This group of Project Directors has a history of being the closest working Regional group of its kind in the country and our selection of Dennis as our representative to the PAG Steering Committee demonstrates again the trust and respect we all had for him. One of the ongoing critical issues before the Steering Committee involved establishing formulas and recommendations for the allocation of Legal Services Corporation funds. These were thorny issues, and to address them, the Steering Committee established a Funding Criteria Committee. Dennis served on this all important committee, whose meetings were contentious. It was Dennis, according to his fellow Committee members, who often came up with the thoughtful proposals and solutions.

Richard Cullison, Executive Director of Legal Aid of the Bluegrass, was an executive director colleague of Dennis' in Kentucky for twenty years. He recently remembered Dennis for his recognition that legislative advocacy was a necessary complement to litigation on behalf of low income clients. Because of Dennis, the legal aid community in Kentucky has always maintained an advocacy network which is not bound by the LSC restrictions. Among the successes his efforts brought include: raising Aid to Families with

"He was a great character, with a good sense of humor and a passion for making things fair. He also was always able to evolve both his thoughts and his actions to meet head on the current challenges he and we faced..."

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So Let Me Ask You This... — A Puzzle

ACROSS

- 1 Wheelchair access feature
- 5 "M*A*S*H" setting
- 10 Copies
- 14 Prefix with logical or graphic
- 15 Politico Mo of Arizona
- 16 Dispatched
- 17 Suffixes with ball and bass
- 18 Gestation locations
- 19 Sly
- 20 Start of a question prompted by this issue's special feature (4 wds.)
- 23 Like water heated to 212° (3 wds.)
- 24 Hot 90's shape-fitting computer game
- 27 Pick, with "for"
- 28 "Just ____" (Nike slogan, and convicted slayer Gary Gilmore's last words)
- 30 Santa ____ winds
- 31 Ariz. neighbor
- 34 Part 2 of question
- 37 Famed chair designer Charles
- 39 N.Y.C. subway line
- 40 Ancient Greek colony
- 41 Part 3 of question
- 44 Sugar suffixes
- 45 Yoga class need
- 46 Commuting option
- 47 Greek letters
- 49 Nation of Islam leader ____ Muhammad
- 51 NRA member's storehouse
- 55 End of question
- 58 The gamut (3 wds.)
- 60 Thongs
- 61 "...know her ____ love her..." (2 wds.)
- 62 Mercedes-____
- 63 Poet T. S. ____
- 64 Rounded hammer's end
- 65 Like pie?
- 66 Idyllic places
- 67 Filly's father

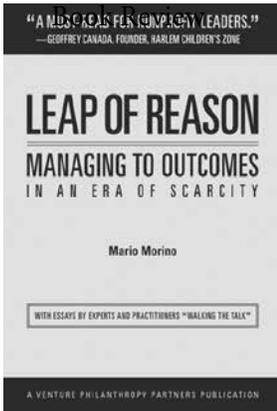
DOWN

- 1 Spanish wine
- 2 Deuce follower in tennis (2 wds.)
- 3 High-I.Q. group
- 4 Some letter drops (2 wds.)
- 5 Certain Persian Gulf native

1	2	3	4		5	6	7	8	9		10	11	12	13
14					15						16			
17					18						19			
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31	32	33			34	35					36			
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45				46					47	48				
49			50					51				52	53	54
			55				56	57						
58	59				60						61			
62					63						64			
65					66						67			

- 6 Lefty of old time baseball fame
- 7 St. Louis gridders
- 8 Hamburg's river
- 9 Ancient region of France
- 10 Fancy tie
- 11 Hardly 3-Down candidates
- 12 The E in ESL
- 13 Pig's digs
- 21 One with a beat
- 22 He portrayed Yin Yang in "The Expendables"
- 25 Navel variety
- 26 Heroic tales
- 28 Hannah of "Splash"
- 29 Twice tetra-
- 31 "I'm an all ____" (Words of one who's re-invented him/her-self) (2 wds.)
- 32 Blues singer Taj
- 33 :) and : (- among others
- 35 Emphatic assent in Acapulco
- 36 Ship sinkers, according to an old nautical wartime adage (2 wds.)
- 38 It's a wrap
- 42 Classic Milton Bradley dice-rolling game
- 43 They can be "civil"
- 48 ____ Today
- 50 DJ ____ Jeff and the Fresh Prince (early rap duo)
- 51 Par ____ (by airmail)
- 52 Japanese-American
- 53 Following
- 54 Africa's Sierra ____
- 56 Grasp
- 57 Singer India ____
- 58 Oscar-nominated Daniel Day-Lewis role, familiarly
- 59 Leaves in the afternoon?

Thanks to Pat McIntyre, whose puzzles also appear in the New York Times, for this crossword. The solution is on MIE's website: www.mielegalaid.org.



LEAP OF REASON — MANAGING TO OUTCOMES IN AN ERA OF SCARCITY

By Mario Morino (*Venture Philanthropy Partners*)¹

Journal Committee Note: Following up on the Fall 2012 MIE Journal's Special Feature "Beyond Cases Closed: The Latest in Outcome Measurement in Legal Aid," two members of the Journal Committee read the monograph on outcomes recommended by LSC President Jim Sandman and decided to share their thoughts with readers.

Review by Dave Yoder, Executive Director² Legal Aid of Eastern Tennessee

I have been interested in "outcomes" as a performance measurement tool for a long time. At the same time, for a long time, I have been frustrated by the discussions related to them and the attempted implementations by funders. Legal Services Corporation President Jim Sandman recently recommended reading *Leap of Reason* by Mario Morino, and I normally do pay attention to Jim.



Morino has written a very compelling monograph. One of the primary reasons it is compelling is his early question, "To What Ends?" He goes on to answer, "Every ounce of our effort on assessing social outcomes should be with one end in mind: helping nonprofits deliver greater benefits to those they serve." *Leap of Reason* is a spin on "leap of faith." It is Morino's discussion of how outcomes should be envisioned and designed, specifically mission-based performance outcomes, and a guide toward managing toward those outcomes. Morino says that we need to begin by defining what we want to accomplish. What is our mission? This alone, I suggest, prompts a discussion that we in legal aid may never have fully resolved. In some quarters, we

still debate whether our mission is to end poverty or to provide civil justice. Each grantor certainly has an opinion/regulation on what our mission is, but what are the goals of our clients and/or our staff? There is still a debate as to whether these two missions are identical or separable. From an explanation of mission-driven outcomes, Morino then addresses performance-driven outcomes and proper measurements of performance.

Unlike most of what I have read on the subject, and certainly unlike what I have been handed by multiple United Ways and other funders, *Leap of Reason* makes sense, is well-structured into a logical format and is well-supported. Mario Morino offers "Take-Homes in Tweets" at the end of each section that are helpful summaries, if sometimes too brief for us non-tweeters. He frequently quotes other experts from Peter Drucker to Yogi Bera (yup, Yogi) to support or further develop what he is trying to convey. In fact, there is a whole section "Essays by Experts and Practitioners Who Are 'Walking the Talk'" at the end of his work. Morino also includes a useful flow chart. And, I know some of you are thinking all you need is the flow chart. Wrong! There is a wealth of really clear and critical thinking here.

In some places, Morino actually reinforced some of my concerns, such as with the misuse of outcomes and the outcomes process by funders. He references counting for counting sake and the desire by some funders for a quick fix. He chastises funders with too little knowledge and understanding who are unwilling or unable to learn what really needs doing. He sees "managing to outcomes" as more or different than generating numbers to get the money. He never loses his focus on serving the intended clients. He sees service as the primary reason for outcome measures.

One reference that Morino makes is to his perceived need to leap to focusing on a "sector" model rather than on a model for any specific organization. At first, my reaction was, yes, let's focus on "Legal Aid"

instead of Legal Aid of Eastern Tennessee and each individual program. What he actually is proposing is a model for the entire nonprofit sector. The focus on one model for all nonprofits seems on one level an overwhelming leap and yet, why shouldn't the right model work for all of us? If I have learned one thing in all these years, practicing from the 45th parallel to south of the Mason Dixon, it is that we are each not nearly as unique as we prefer to think. Perceived differences are sometimes an excuse for avoiding change or discounting alternatives.

Pursuing Mario Morino's vision expressed in a *Leap of Reason* could force us as a community to answer some questions that we have failed to come to grips with. Answering those questions could have a tremendous impact on funding, favorably or unfavorably. The author points to "Risks and Rewards." Morino certainly prompted questions in my mind. One premise seems to be that if we don't ask and answer the critical questions, someone else, especially in this time of scarcity, will. In that case, we have a much greater likelihood of not liking the answers we are handed and a much greater likelihood that those answers will not lead to fulfillment of what we believe is our mission.

I am still a bit skeptical. I ask, "Is there a risk that a large ego without a real clue but with the power to do so, will use this call to disrupt everything that is, throw it all up in the air, claim a new righteousness for whatever falls out and move on, leaving the street level, front line folk to try to help people in spite of the mess left behind?" "Do no harm" is addressed in *Leap of Reason*. Maybe, the only way to prevent that is to really get involved. Marino and his contributors include a really heavy, prioritized, reading list for us with every step.

I do have questions. How do we/I find/create the time to build this pathway to "managing toward outcomes" while fighting to keep the doors open and services flowing and also dealing with personnel issues often related to stress (and oh yes, we're changing again), health and an aging work force? How do we/I involve partners and build collaborations when everyone else is also dealing with their own list of crises? How do we involve clients, as rightly suggested, whose primary focus is survival? And, how do we do it while the wolves are knocking at the door? Mario Marino, in *Leap of Reason*, seems to say that we don't really have a choice in today's reality, "in an era of scarcity."

You will have your own reactions to and learnings from *Leap of Reason*. My take-aways might well seem all wrong to you. I think Mario Morino will appreciate that.

*Review by Catherine Carr, Executive Director³
Community Legal Services*

For years the nonprofit community has discussed how to measure "outcomes" and many funders have joined the outcomes measurement bandwagon, urging their grantees to collect data so as to show that indeed they are making a measurable difference, as documented by these outcomes. We in the legal services world have joined this fray, and think and talk a lot about how we can gather the data to document what we do and show that we are really helping our clients, our communities, and our country.



Leap of Reason is a short book which bills itself as a work about nonprofit "outcomes," and it has gotten some attention as an interesting new look at outcomes measures. I found it interesting and helpful in its conclusions, but frankly, it confused me in its delivery, perhaps because I came to the book with the focus on outcomes *measurement* rather than outcomes *achievement*.

The truth is, this is not a book about why we need to measure outcomes, but rather a book about a much more important issue: achieving outcomes. Marino believes that if achieving real change for those we serve is our mission, we need to focus on that and use appropriate logic, reason and information to do that. He recognizes that we can get lost if our focus gets shifted simply to the question of how we measure outcomes. Using data is a critical part of good management, but more important is the overall development of a "performance culture," led by "courageous" leaders who think clearly about the program mission and goals and use logic, information, analysis and reason to move their work forward.

The data he is talking about is broad and based on common sense. He points out that good organizations look at budgets, service numbers, external research, input from clients, the experience of similar providers, etc. They use this information to assist in an analysis of whether they are effectively meeting the program mission or goals.

As Marino's book recognizes, great organizations think carefully about their goals and look carefully at any helpful information as they try to reach those goals. They will repeatedly analyze whether they are making progress towards their goals. Collecting data may help that effort. But they should not overly focus on how

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to collect or measure data, and must be sure that does not distract them from achieving their goal. For small organizations, Marino says “measuring their outcomes” may simply be setting out one achievable short term goal and seeing if that has been accomplished at the end of a grant. Organizations need to be self-aware and self-critical; they must make sure they are indeed effective. And Marino concludes that it is high performance “culture,” with effective leadership, which is the critical factor in achieving success.

My initial confusion with this book grew out of the use of the term “outcomes” which has been used by many funders to justify tedious collection of data, without adequate analysis of how the data will be used, the cost of collecting it, or its connection with ultimate programmatic goals. But what Marino is recognizing, though perhaps not saying clearly enough, is that a management focus on actually *achieving* outcomes is much more important than *measuring* outcomes. When collecting data or measuring some particular outcomes helps us achieve our goals, helps us do more good or make more positive change, then, of course, we should do that. But collecting data and measuring outcomes are only tools to reach our goals; ultimately the question is whether we are indeed achieving our goals.

Part of the complication in measuring outcomes in the nonprofit sector is that some of our goals are very complex. Marino urges us to clearly recognize and articulate them before we try to measure them. However what he does not say is that many identified goals are also very difficult, if not impossible, to measure. Marino begins to recognize this, describing how when he first moved from the for-profit world to the nonprofit sector, he did not appropriately value what he calls the “soft” or “holistic” goals of many social service organizations, such as “community building.” It took him awhile to realize that indeed the holistic approach to helping people is what helped him grow up and succeed; he now sees it as of critical importance.

However, he still misses the bigger point: measuring our success at achieving some goals is not something we easily do, but this should not stop us from valuing those goals. Just within our legal aid sphere the questions of how and what we measure abound: How do we measure whether the past fifty years of legal services has improved our justice system or empowered the poor? How do we know if our work assisting welfare recipients or representing tenants has reduced

poverty in the long run, and what interim markers do we use as outcomes measures? How do we measure whether representing families in family court improves our democracy, or moves families into self-sufficiency? We strongly believe our work has been critically important at achieving these and a variety of other goals, but we struggle with how to measure our success.

The fact that we do not yet know how to easily measure the “outcomes” of some of our work should not stop us from continuing to push forward towards those goals. We need to keep trying to figure out what data and research is helpful and use the best information we have to inform our work, but the lack of easy measurement systems must not deter us or distract us from pushing towards the goals we value most.

Marino may recognize this implicitly with his conclusion that more important than measuring data is a culture of high performance. He titles a chapter “Culture is Key” and argues that all organizations which “manage to outcomes successfully have courageous leaders who foster a performance culture” through which they constantly seek to do better. He implies that great organizations will naturally and logically want the best information they can get and will adjust their work in accordance with what that data shows.

Marino’s conclusions are nothing new; management literature in both the for-profit and nonprofit sectors focuses on the importance of good leaders and a flexible culture which encourages organizational self-analysis and high performance. But his use of the “outcomes” language of funders to lead him to these conclusions is helpful in moving the outcomes measurement discussions away from their more simplistic iterations.

In addition, the book is an interesting description of a thoughtful for-profit manager’s journey into understanding the challenges and needs of managing in the nonprofit world. I admit I have a certain bias against for-profit managers who think they can take their experience and money and easily walk into philanthropy and tell career nonprofit leaders what they are doing wrong. However, Marino is appropriately humble and his evolution as he gained nonprofit experience is reflected in this book. He started out concerned about metrics, as for-profit leaders often do; metrics are simpler when the bottom line is making money. But he ends up valuing leadership and culture as key to outcomes.

What the best nonprofit leaders know is that work to make the world a better place, to provide help to

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Worth A Look!

In light of this issue's special feature on work-life balance, we have compiled a reference list of several recent articles on the topic, starting with the one that ignited a firestorm of opinions blasted all over the internet and other publications, Anne Marie Slaughter's **Why Women Still Can't Have It All**. This is not a comprehensive list — a simple internet search will turn up dozens more — but includes a variety of different perspectives and some satire thrown in as well.

- "Why Women Still Can't Have It All," Anne Marie Slaughter, *The Atlantic*, July/August 2012 (<http://www.theatlantic.com/magazine/archive/2012/07/why-women-still-cant-have-it-all/309020/>)
- "Why Can't Women Have It All? It's Not You — It's Discrimination," Bryce Covert, *The Nation*, June 21, 2012 (<http://www.thenation.com/blog/168523/why-cant-women-have-it-all-its-not-you-its-discrimination>)
- "Can Modern Women 'Have It All'?", Rebecca Traister, *Salon*, June 21, 2012 (http://www.salon.com/2012/06/21/can_modern_women_have_it_all/)
- "Anne-Marie Slaughter and the Fiction of 'have-it-all' Feminism," Victoria Bekiempis, *Guardian*, June 22, 2012 (<http://www.guardian.co.uk/commentisfree/2012/jun/22/annemarie-slaughter-haveitall-feminism>)
- "The 'having it all' Debate: We've Heard It All Before," Deborah L. Rhode, *The National Law Journal*, August 6, 2012 (http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202565806305&The_having_it_all_debate_Weve_heard_it_all_before_)
- "Non-superwomen Need Not Apply," Joanna Weiss, *Philadelphia Inquirer*, June 27, 2012 (http://articles.philly.com/2012-06-27/news/32442042_1_schedules-meetings-friends-women)
- "An Overwhelmed Mother's Departure Memo," KJ Dell'Antonia, *New York Times*, November 9, 2012 (<http://parenting.blogs.nytimes.com/2012/11/09/an-overwhelmed-mothers-departure-memo/>)
- "Why Gender Equality Stalled," Stephanie Coontz, *New York Times*, February 16, 2013 (<http://www.nytimes.com/2013/02/17/opinion/sunday/why-gender-equality-stalled.html?pagewanted=all&r=0>)

Other Notable Items:

The National Legal Aid and Defender Association (NLADA) has launched a new website for **Civil Legal Aid Research**, funded by the Public Welfare Foundation: <http://legalaid-research.org/>. It is a work in progress, but appears to have potential to be clearinghouse for relevant documents, including "*the less tangible and not-so-easily measured value imparted by civil legal aid.*" Richard Zorza did a short blog post about it: <http://accesstojustice.net/2012/12/02/nlada-launches-legal-research-website/>.

Mayeno Consulting — Lessons from the Field addresses topics of interest to nonprofit, public and philanthropic organizations working together to create systems, services and communities that work for everyone. Some topics include discussions on the need for self-care, diversity issues, tensions in the workplace, and providing feedback to employees. <http://mayenoconsulting.blogspot.com>

The **Legal Services Corporation Pro Bono Task Force**, charged to recommend innovative ways to enhance pro bono through the country, released its report in October 2012. The task force was comprised of five working groups: Best Practices-Urban, Best Practices-Rural, Obstacles, Technology, and Big Ideas. LSC Board members Martha Minow, of Harvard Law School, and Harry J.F. Korrell III, of Davis Wright Tremaine LLP, co-chaired the distinguished task force, which included more than sixty experts from the judiciary, major corporations, private practice, law schools, the federal government, and the legal aid community.

WriteClearly.org is a clearinghouse of free plain language resources targeted toward the justice community. It was created with the support of a Technology Initiatives Grant (TIG) from the Legal Services Corporation, Legal Assistance of Western New York, Inc., and Transcend Translations to make plain language examples, tools, and instruction available to the justice community for free. Features of WriteClearly.org include: a collection of model plain language legal documents in English, Spanish and other languages; tools that analyze text for readability; and tips for creating new documents in plain language.

Thanks to Joann Lee, Managing Attorney, Legal Aid Foundation of Los Angeles, for this contribution to Worth a Look!

What has caught your eye lately? Tell MIE how to locate the website, periodical, book or other resource, along with four or five sentences describing what you like about it, and we will share the information with your colleagues. Email us at helpdesk@m-i-e.org.



CY PRES AWARDS, LEGAL AID AND ACCESS TO JUSTICE: KEY ISSUES IN 2013 AND BEYOND

By Bob Glaves, Executive Director, Chicago Bar Foundation, and Meredith McBurney, Resource Development Consultant for Management Information Exchange and the ABA Resource Center for Access to Justice Initiatives¹

[Journal Committee Note: MIE has long recognized the importance of cy pres as a funding source for legal aid. The work we do to obtain these awards has evolved in recent years, as courts have ruled in class action cases and appeals, and courts and legislatures have revised statutes and rules. This article provides a summary of the key issues involved in obtaining cy pres funds today. The appendix to this article, which can be found in the library of the MIE website at <http://mielegalaid.org/>, provides the details — copies of relevant cases, articles and sample materials. We encourage you to read this article with your computer open to the website!]

Cy pres awards, which in the class action context most often arise from undistributed residual funds in the case, have become an increasingly important source



of funding for legal aid and access to justice (ATJ) over the past decade. And appropriately so, as the one

common denominator in all class action cases is that they are fundamentally about access to justice, a principle that increasingly is recognized by state supreme courts and legislatures and a host of state and federal courts around the country.

In spite of a large and growing body of authority and precedent, there have been several cases and articles in recent years that have raised questions about these awards, inappropriately amalgamating the issue of legal aid's legitimacy as a cy pres recipient with other genuine concerns raised by the circumstances in individual cases. This calls for a coordinated, twofold response from the legal aid/ATJ community throughout the country: (1) educating the bench and bar about the well-established and well-reasoned authority for these awards to go towards legal aid and access to

justice initiatives, always remaining consistent on the fundamental arguments; and (2) recognizing the legitimate concerns raised in some cases involving cy pres awards and planning for them in education/outreach efforts so as not to inadvertently get caught in the crossfire when those concerns are present.

We all have a stake in doing this well, and we will all be more successful in our individual efforts if we utilize coordinated and complementary strategies. And when the proper foundation is set, designating one or more legal aid or ATJ organizations as the recipient of residual funds in a class action gives the parties and the court an excellent solution to what otherwise can become a thorny issue in the settlement of a complex case.

A (Very Brief) Overview of Cy Pres Awards and How They Arise

Cy pres awards are funds that, for any number of reasons, are unclaimed or cannot be distributed to the class members or beneficiaries who were the intended recipients. Once it is known that the funds cannot be distributed as originally intended, the parties and the court have to determine how to dispense with those funds. These situations arise most often in class actions, and that is focus of this article. Under the cy pres doctrine and more specific laws in a growing number of states, courts can distribute these residual funds to appropriate charitable causes. As noted in the next section, legal aid and access to justice initiatives are appropriate charitable causes in any class action case.

In considering strategies around this issue, it is important to remember the context through which these awards normally arise. The parties are going to be focused on the underlying purpose of the class action and the larger settlement of the case. Generally speaking, the issue of what to do with any award of residual funds is considered by the parties settling a class action to be one of several minor collateral issues that must be addressed to close out the case. The residual fund issue

may be addressed during the settlement negotiations, but in many cases it is not addressed in the agreement at all and does not arise until the administration of the settlement has been completed, sometimes years after the rest of the case has concluded.

With that backdrop in mind, what is going to be most important to the parties in a residual fund context is to avoid anything complex or controversial that potentially could draw an objection and upset the larger settlement. And that creates a great opportunity for legal aid and ATJ programs that are properly prepared. With the broad base of authority noted in this article and the universal nature of the access to justice cause in this context, legal aid or ATJ programs always can be pitched as a great solution for the parties and the court.

Legal Aid and Access to Justice Initiatives Well-Established as Appropriate Recipients

Federal and state courts throughout the country long have recognized that awarding residual funds from class action settlements or judgments to organizations that improve access to justice for low-income and disadvantaged people is an appropriate use of the *cy pres* doctrine. While some courts correctly have questioned awards to charities with no connection to the class or the underlying case, courts regularly approve *cy pres* awards to legal aid and ATJ organizations. That is because the one common underlying premise for all class actions is to make access to justice a reality for people who otherwise would not realistically be able to obtain the protections of the justice system.

In addition to the large body of case law supporting the use of *cy pres* awards to advance access to justice, a growing number of states have adopted statutes or court rules at the state level codifying the principle that organizations which promote legal aid and access to justice are always an appropriate use for residual funds in class action cases. These court rules and statutes underscore that legal aid and access to justice are distinct from other charitable causes that have drawn legitimate concerns because they are unconnected from the interests of the class members.

Based on this well-established authority, hundreds of *cy pres* and residual fund awards have been directed to legal aid and ATJ programs around the country in recent years. While the total amount of these awards varies on an annual basis, these awards now collectively on average provide more than \$10 million in support for the cause each year.

A Few Clouds on the Horizon, Yet the Sun Should Shine Through

In spite of the well-established authority noted above, there have been a few cases and articles in recent years that have questioned the legitimacy of certain *cy pres* awards. In some cases, legal aid specifically has been included among those concerns based on particular circumstances present in those cases.

In reviewing these cases, we need to start with the recognition that there indeed have been cases where parties improperly attempted to direct *cy pres* awards to causes that had no connection to the class or the case or to access to justice through the courts. Examples have included general awards to charities or educational institutions with no particular relationship to the class action. The concerns in the *cy pres* context are not about whether these are good and effective charities and institutions; it is their relevance to the class action where there are residual funds to be awarded. In some instances, the organizations selected, sometimes including legal aid programs, may be appropriate, but the reasons for including the organization has not been articulated, leaving the appeals court to guess, sometimes inaccurately, about the connection of a particular organization to the issues of the case.

Another issue that has properly been raised is when *cy pres* awards in national class action cases are directed to local charities only and do not account for the wider geographic character of the class. For example, in a recent case from the Ninth Circuit Court of Appeals, the court overturned the award of residual funds to a local legal aid organization and two other charities, focusing primarily on its concern that the distribution did “not account for the broad geographic distribution of the class.”

Some authors and commentators have inappropriately used those concerns in specific cases to more broadly challenge the legitimacy of legal aid as an appropriate *cy pres* recipient. However, as noted above, provided that geographic concerns are properly respected there is a large base of authority and precedent underscoring that legal aid is distinct from other charitable uses of these awards. Notably, this well-established authority is not acknowledged by the critics and commentators questioning legal aid more broadly, emphasizing the importance of good education and outreach to the bench and bar to ensure these fundamental points are understood and respected.

Three Things Every Program Should Do Now

In order to ensure that the Sun indeed does shine

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through the potential clouds noted above, there are three things every legal aid program and its relevant stakeholders should do on a macro level as part of a coordinated education and outreach campaign:

1. Maximize the Impact of Rules and Statutes

In eleven states, the legislature or the Supreme Court has enacted a statute or rule stating that legal aid/ATJ is an appropriate recipient of *cy pres* funds. In those states, the legitimacy of legal aid as a *cy pres* recipient in state court cases is established and not subject to question. The presence of the rule or statute also serves as persuasive authority in federal court cases in those jurisdictions. As more states enact rules or statutes, the strength of the case that legal aid and access to justice are distinct from other charitable uses of *cy pres* awards becomes stronger, even in jurisdictions that have not explicitly spoken on the issue.

For these reasons, for states that do not have a rule or a statute in place, the ATJ community should consider whether it is feasible to implement an explicit rule. States of all political persuasions have adopted rules or statutes, underscoring that these policies are the embodiment of the well-established authority that legal aid and access to justice are appropriate recipients of *cy pres* and residual fund awards in any class action case.

2. Lead with the Access to Justice Principle

Always lead with the access to justice principle. This is particularly critical in states without a rule or statute, and imperative for all states in federal court cases. If there is another nexus that fits in a particular case (*e.g.*, in a consumer case noting the important work legal aid does to protect consumers), that can be a good secondary argument to also include. But it is crucial to always lead with the access to justice principle as that applies across the board in every class action for every legal aid program.

Again, the access to justice rationale is this: legal aid or ATJ organizations are always appropriate recipients of *cy pres* or residual fund awards in class actions because no matter what the underlying issue is in the case, every class action is always about access to justice for a group of litigants who on their own would not realistically be able to obtain the protections of the justice system. This fundamental principle is the basis for the growing number of states that have adopted

rules or statutes and for hundreds of federal and state court cases throughout the country that have approved these awards to legal aid and ATJ organizations. While there may be other appropriate recipients of a *cy pres* award depending on the basis of a particular class action, a *cy pres* award always can be justified for legal aid or access to justice based on this fundamental principle.

3. Be Sure to Account for Geographic Issues

If a class is local or statewide and your legal aid or ATJ organization serves that geographic area, this will not be an issue. However, in multi-state or national class actions, this is a critical issue to address, as the Ninth Circuit case noted above underscores.

Even in national cases, the class action typically is certified, administered and resolved in one particular court. Access to justice in that particular jurisdiction therefore takes on added importance for that class, and on that basis courts typically approve up to half of an award to local legal aid or ATJ organizations. The other half of the award still must account for the broader geographic scope, and as we have seen, failure to account for it can be grounds for throwing out an entire award.

There are different ways to address the geographic scope issue. One way is to include other legal aid or ATJ organizations that have the appropriate regional or national scope (*e.g.*, Equal Justice Works, the National Consumer Law Center, Health & Disability Advocates and the Sargent Shriver National Center on Poverty Law). In larger national cases involving multimillion dollar awards, three approaches that successfully have been used were to give a proportionate share to each state IOLTA organization; a proportionate share to all LSC-funded organizations; or a representative geographic distribution of regional legal aid and ATJ organizations.

Any of these approaches to issues of broader geographic scope can be acceptable; the key is to make sure the issue is addressed!

Key Education and Outreach Strategies

To ensure that *cy pres* awards remain a strong funding source for legal aid requires a strategic and coordinated education and outreach campaign in every jurisdiction. It may have worked okay in the past to look at these issues more informally, but some recent cases involving challenging facts—along with an organized campaign by organizations that aim to limit class actions more broadly—have put a much greater

spotlight on *cy pres* awards. Even in jurisdictions with a strong rule or statute or solid court precedents, it would be a mistake to assume that all of the relevant stakeholders (*i.e.*, the courts, the bar, key members of the legal community who work on class action cases, and other legal aid and ATJ organizations) are fully aware of these issues or understand the critical importance of addressing the key “macro” points noted in the preceding section of this article.

1. The Value of a Coordinated Effort

Many states and metropolitan areas have developed a centralized, coordinated effort to ensure that the core *cy pres* messages are communicated to the key stakeholders on an ongoing basis and that those stakeholders have an appropriate mix of access to justice options from which to choose. These coordinated campaigns are being run by bar foundations, IOLTA programs and access to justice commissions. If there is not already a coordinated effort in your jurisdiction, one of those entities will be the best place to start that conversation, stressing the key points we have emphasized in this article. MIE and the ABA’s Resource Center for Access to Justice Initiatives are good places to turn to for advice and counsel in starting such an effort.

The Chicago Bar Foundation (CBF) has been serving this role in the Chicago area for the last ten years. As part of that effort, the CBF consistently does outreach to the class action bar, the state and federal courts and other stakeholders, including information both about the CBF and the many individual legal aid organizations serving the community. The CBF also includes sample language, fact sheets and other information on its website and highlights the many successful court-based advice desks and pro bono projects made possible by these awards. These efforts collectively have generated an average of more than \$1.5 million per year in recent years for the CBF and a number of individual legal aid organizations.

2. Developing Your *Cy Pres* Effort—The Basics

Your program’s role in the *cy pres* effort will depend on how the overall campaign is structured in your community or state. What is listed here are the basics, which need to be done by somebody — either each individual program and/or a coordinating entity as described above. This part of *cy pres* resource development really has not changed in recent years, and there are plenty of materials available to help you get started if you are new to *cy pres*. (See the appendix!)

- **Have relevant information readily available:**

Every legal aid organization should include *cy pres* and residual fund awards (using both terms) as an option for supporting your organization. That option should appear on your website, with a brief description of your organization and contact information in case someone interested in directing an award has a question. It should also appear in printed brochures and other development materials.

- **Talk with your staff, board and other key volunteers:** Provide them with information about *cy pres* awards. Encourage them to be aware of opportunities for *cy pres* awards for legal aid.
- **Develop a *cy pres* committee:** If there is not a coordinating entity in your area, you should consider setting up a *cy pres* committee and developing a strategy. Your committee should include board members and other volunteers who are familiar with this area of law and/or have strong relationships with attorneys who do class action litigation and judges who hear these cases — volunteers who can have personal conversations with this relatively small number of attorneys and judges who are involved in class action litigation.
- **Develop and implement a *cy pres* strategy:** See the appendix (which includes sample messages, materials and manuals) for information on developing and implementing a *cy pres* strategy.
- **Don’t forget fundamentals of development:** A *cy pres* campaign is basically about resource development, and in many ways is the same as other private fundraising that is being done by your program:
 - » Remember the interests of the parties in avoiding potential controversy in the *cy pres* context. As noted above, legal aid can and should be pitched to the parties as a great solution.
 - » See the players as individuals, and treat this as you would other personal, one-to-one fundraising efforts.
 - » Stress initiatives that further the interests of those involved in the case (*i.e.*, plaintiff and defense counsel, one or more corporate defendants, and the court), keeping in mind that the great majority of these awards are distributed as part of a settlement. Examples include projects of your organization that directly assist the courts, such as court-based pro bono projects or *pro se* assistance projects, or particular services your organization provides that will be attractive to the parties.

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- » If you are contacted about a potential *cy pres* award, get back with any information requested as quickly as possible. Have template information and materials prepared as part of your strategy, so that with minor adjustments based on the case you can get respond to the attorneys or judge immediately.
- » Thank those involved and acknowledge them in your recognition efforts (after confirming they want to be recognized).

3. Your Bar Foundation or IOLTA as a Partner

Even if you are in a state or metro area without a coordinated campaign, there will be times where an award to one of those entities will be a preferable solution and it will be important to have such an organization as a partner. Examples include where the defendant or the court is uncomfortable with an organization that litigates in that court, or where one of the parties or judge is affiliated with the organization. This only occasionally becomes an issue, but when it does a bar foundation or IOLTA organization that does not litigate and has an objective grants process in place for distribution of funds can allay those concerns and ensure that an award will still advance access to justice.

Conclusion

There are many things that counsel will disagree on in any class action case, but this is an area where counsel on all sides can agree that the solution is good for everyone involved: the class, the defendant and the courts. In addition to being an important source of funding for the cause, directing *cy pres* awards to legal aid or ATJ programs can be a great solution for the parties and the court so long as geographic and other key considerations are properly addressed.

The appendix (in the MIE website's library under resource development/*cy pres*) created with this article can serve as a central resource center for everyone, whether you are just getting started or are fine-tuning an already existing campaign. As we have noted throughout this article, we are all in this together, and it is absolutely key that we all have good, coordinated education and outreach campaigns that stick to the key messages highlighted in this article.

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© PLANNING STRATEGICALLY WHEN TIMES TURN BAD
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served more strategically in two states where courageous program leadership was willing to bite the bullet and ask and answer hard questions about the future of their programs.

- 1 John A. Tull has worked for more than twenty years as a management consultant to legal services programs, courts and state, local and national bar associations. He is the author of numerous articles and studies about the delivery of legal services to low income people. His career in legal services began as a Reginald Heber Smith Fellow and legal aid staff attorney in 1970. He served as Executive Director of Southern Arizona Legal Aid in Tucson, Arizona from 1974 to 1980. John was the reporter for the Standards for the Provision of Civil Legal Aid adopted by the American Bar Association

(August 2006) as well as the ABA Standards for Providers of Civil Legal Services to the Poor (1986) and the Standards for the Monitoring and Evaluation of Providers of Legal Services to the Poor (1991). He served as Vice-President for Programs and Director of Program Operations at the Legal Services Corporation from 1994 to 1998. John may be reached at jatassoc@earthlink.net.

- 2 It is perhaps interesting to note that the original article regarding "Planning Strategically When Times Turn Bad" identified a cutback in the range of 10 to 20% as likely precipitating "Scaling down and moderate transformation of parts of the organization," and cutbacks of 20 to 40% as potentially leading to "Significant transformation of parts of organization."
- 3 The Montana Legal Services Association had engaged in a similar exercise in preparation for a board retreat, discussed in the following section, where it considered changes in the focus of the program's legal work.



THREE COMMON MISTAKES TO AVOID IN CONDUCTING WORKPLACE INVESTIGATIONS

By Karla Grossenbacher¹

Employers investigate workplace complaints for a variety of reasons. In some instances, there is a duty imposed by law to investigate. In other instances, the

employer may have policies that provide it will investigate certain types of complaints according to certain procedures. In a broader sense, it is generally prudent for an employer to address employee complaints and attempt to resolve

them in order to avoid disruptions in the workplace and bolster morale.

Thus, all in all, it is a good thing to conduct workplace investigations, but here are three common mistakes you should avoid when conducting workplace investigations:

1. Failure to Document

If you are going to invest the time and resources into investigating a complaint, you should document the fact that you did the investigation. Be it in the context of defending against a legal complaint, or addressing a related issue that surfaces in the future, it makes sense to keep a record of the investigation. Documentation can mean a formal investigation report, or it could be something as simple as a manila folder in which someone collects the notes taken during the investigation. You should memorialize the salient points: nature of complaint, who was interviewed, what documents were reviewed, if any, and what the outcome of the investigation was.

2. Insisting on a Written Complaint Before Investigating

Some employers still believe that an employee must place his/her complaint in writing or they are under no duty to investigate the complaint. The thinking is that, if the complainant were really telling the truth and serious about his/her complaint, the complainant would be willing to put it in writing. However, certainly when

it comes to complaints of discrimination, the case law makes clear that an employer's duty to investigate is triggered by the making of a complaint regardless of whether or not it is written down.

Complaints can be verbal, and they can be anonymous. The point is that the employer is put on notice of the issue that is the subject of the complaint by virtue of the complaint, and the fact that the complaint is not written does not change that fact. This being said, there is nothing wrong with the employer requesting that employee put his/her complaint in writing. It makes things easier for the investigator if the complaint is reduced to writing because then the complainant's allegations will not be a moving target and can be studied and evaluated. However, if the employee refuses to put the complaint in writing, the complaint should still be investigated based on the information that has been provided orally.

3. Not Closing the Loop

Oftentimes, the people conducting the investigation become so consumed with doing the investigation and are focused on bringing the matter to a close that they forget to communicate the results of the investigation to the person bringing the complaint and the person about whom the complaint was made. These individuals are usually waiting anxiously for the outcome. Given that the point of an investigation is to resolve the issue raised by the complaint, it is important to circle back with the person bringing the complaint to let them know the outcome so they are aware of the resolution.

The investigation report itself, if one is created, does not need to be disclosed to the complainant or the alleged bad actor. However, if the outcome of the investigation is that the alleged bad actor actually violated a policy or engaged in misconduct, it is okay to tell the complainant that appropriate action was taken designed to stop whatever conduct was at issue.

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WORK-LIFE BALANCE IN LEGAL AID



In the Balance

*By Elizabeth Wehner, Managing Attorney¹
Legal Aid of West Virginia*

- **August of 1997:** I arrive at the Legal Aid Society of Charleston as a newly minted law graduate full of zeal and idealism, with little awareness of agency policies impacting work-life balance or the importance of self care.
- **January of 1998:** Informed by a manager that as “the person without a family” I should take primary responsibility for weekend/evening work required to complete group project and satisfy terms of federal contract. Politely but firmly object to assumptions underlying request and manager real-locates project assignments accordingly.
- **December of 2004:** Expansion on several fronts, as my agency has merged into a statewide program, and I am about to have first child. Relieved that senior managers have accepted my “maternity plan:” son to come to work with me on part time basis throughout his first year, provided I secure back up care for “infant inappropriate” out of office responsibilities.
- **July of 2005:** Standing, in panicked state, on fifteen year old baby sitter’s porch, with six month old balanced on hip. Desperate to get on road to hearing in rural county an hour away, in decisively non-baby friendly venue. While agency supportive of son at office, am relying on two intermittently available sitters (teenage daughter of friend and widowed retiree) to cover childcare during court and formal meetings. Resort to calling teenager’s father after much banging on doors/dialing cell number. He hypothesizes “still asleep” as it is “only 10:00 a.m.” and suggests breaking into house to roust her. Emerge in fifteen minutes as sweaty wreck after locating spare key and transferring child and accoutrements. Finally on the road to court.

- **January of 2012:** When mother hospitalized for suspected stroke, utilize ample accrued leave to make several ten hour round trips and spend long weekends assisting with doctor visits, errands, financial issues, and support.
- **February of 2013:** Start year with six weeks’ litigation/grants management crunch requiring weekend and evening work. As schedule begins to ease, take comp time to attend afternoon meeting at son’s school and pick up child early from after-care. Stop by Legal Aid to get folder. Son (who knows security codes) keys us in. At office, son presents handmade “adjective Valentine”: Mom is “loveable,” “tall,” “nice” and “busy.” “Well, you can’t deny that you are all that stuff,” he states.



As the preceding chronology attests, my fifteen years of experience in attempting to maintain a reasonable work life balance while serving as a legal services attorney, office supervisor, and statewide program manager has been a constantly moving pendulum. As a result of my agency’s family friendly policies, I have had enviable opportunities to accommodate a variety of other commitments, whether it be bringing my son to work longer than expected due to a delay in a quality day care slot opening up, or taking time off at short notice to tend to the needs of an ailing, elderly parent. On the other side of the equation, the demands of working within a “lean” organization serving needy, high risk clients have, at times, led me and any number of my colleagues to work weekends, holidays and evenings, to inadequately practice self care, and to fail to avail ourselves of our agencies’ generous leave policies. My

sense, in speaking to legal services managers and staff at regional and national conferences, is that our programs are doing much better than other legal and other professional workplace settings in the United States with regards to family friendly workplace policies, but could be doing more with regards to explicitly addressing issues of self care, burnout and stress for our senior advocacy and managerial staff.

In Terms of One Woman's View from the Trenches *The Good*

As noted in a recent *New York Times* commentary by Stephanie Coontz, a professor of family history at Evergreen State College, the United States' work-family policies rank dead last when compared with other countries of similar levels of economic and political development. Included among the supportive "work-life policies" cited by Coontz that other countries have adopted through legislation and policy are guaranteed paid maternity and paternity leave for new parents, policies enabling those who work fewer than the standard "full time" work week to receive benefits and the pro-rated salary equivalent to a full time worker, and flexibility in work scheduling where job roles permit.

Unlike the vast majority of United States employers, and in particular, unlike for profit-law firms in my region, my agency is extremely progressive with regards to these features and others. As is the case for many, if not most, legal services programs, our program's board and management are broadly committed to maintaining a family friendly workplace, and recognize the social justice implications of broadening opportunities for all staff, male and female, to pursue both work-life balance and a high level of performance and leadership within the agency.

As implicit in the experiences I have detailed above, like many others at Legal Aid of West Virginia, I have benefited from policies that allow generous annual leave, sick leave, and holiday leave. (In fact, as a result of our comp time policies, I have, at times, gone entire years without using any of my accrued annual leave or "floating holidays.") When my son was born, buoyed by stories of the creative maternity plans put together by former staff at my own agency, and legal services staff in sister states, I was able, with upper management support, to tailor an arrangement for my son to be at the office until a day care slot opened at an affordable, quality provider, as long as there were no problems with my job performance or issues with undue disruption to other staff. As my child has grown, I have also availed myself of our program's flexibility (within reason) in

scheduling. When Thomas was in day care, I typically worked a 9:30 to 5:30 schedule, as my husband's job as a reporter allowed him to handle "drop off" at 10:30. Now that our son has to be "butt in the seat" at primary school at 7:30 a.m. and my husband's schedule has shifted as well, my office day typically runs from 8 a.m. until 4 p.m. While I was the supervising attorney for our state's largest office, I approved adjusted hours for several staff, including our male litigation coordinator, to accommodate a variety of family commitments. Of course, there were some caveats to this flexible approach: in positions that require a "staffed desk" such as the front desk legal assistant position in most of our local offices, or our hotline intake staff, there is less of an ability to accommodate individual needs, and our agency has, at times, struggled with the fact that family needs tend to be easier to accommodate for higher paid advocacy and managerial staff than for support staff, especially in high visibility or high client interactive positions such as our hotline team.

In addition to the areas of policy specifically identified in the Coontz article, my agency, like many legal services programs, has inclusive policies regarding leave for illness or death of a partner, parent, or child, and in its comprehensive, low cost (to staff) health and dental insurance options for family coverage.

The Bad

Many legal services managers, in reading over the preceding section, are, I suspect, nodding in recognition. There is a lot that we, as group, are doing right when compared with other U.S. employers in promoting life work balance. However, as I have come up through the ranks of legal services management, and have had the chance to watch my mentors become the senior advocacy leadership in our agency, I also see areas where as individuals and agencies, we need to find ways to be better. In light of our emotionally exhausting areas of practice, our scarce and layoff-battered human resources, and our thin managerial structures, many of our case handlers and managers struggle constantly against overload and burnout. In my own agency, the local office supervising attorneys, middle managers, and advocacy coordinators all combine case handling responsibilities (many in high stress areas such as representing domestic violence victims) with a significant managerial or leadership role. This group is not reticent in articulating their struggles with multitasking, stress, and overwork, which in turn erodes work-life balance. While this is less of an issue in my program, to the extent that there

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is still, among some legal services staff, the remnant of a “cowboy lawyer” mentality, which valorizes high case loads and hours clocked in at the office, there can be a cultural bias against individual and institutional efforts to restore balance and reduce stress for staff.

Comparative salaries are another major area of family and life issues in which we are behind the curve. As detailed in prior editions of the *MIE Journal*, legal services salaries at all levels are not only lower than salaries at for profit legal employers, but also, in most localities, they lag behind other “public interest” employers, such as the Public Defender’s Office. The effect of low legal services salaries tends to intensify for our staff as family responsibilities increase, and young families begin to grapple with buying a first house, paying for day care, dealing with a partner’s bout of unemployment, or addressing the expenses of a special needs child. Particularly when the legal services employee is the family’s primary earner, these pressures, coupled with the grind of repaying educational loans, lead staff to depart for a variety of greener pastures.

And the Ugly

With adulthood comes the recognition that real life does not neatly accord with our preconceived ideals. When I blithely submitted my “maternity plan” in November of 2004, I had a rosy picture of structuring a truncated but still productive work day around my future child’s nap schedule, desk adjacent to the pack and play in my quiet, strategically situated office. I did not anticipate the day when, in a sleep depleted haze, I discovered, after I picked up the teenage babysitter, that I had also accidentally booked the sixty-five year old baby sitter to take care of my son for the same afternoon. Late for an important funder meeting as my child cranked up for an epic squall, I ended up paying the retiree what would have been her full afternoon’s compensation, and sending her on her way on the theory that at least she could drive herself home, and I would be even more behind schedule if I had to drive the fifteen year old back to the other side of town. I also would not have anticipated the sting that came with reading “Mom is . . . busy” among my eight year old’s Valentine adjectives. In terms of a take home message, I would submit that like anything worth doing, struggling as individuals and as programs to integrate work and life balance is a lot harder and messier than we would all like to think.

And Yet... A Few Conclusions and Generalizations

And yet. Despite the frustrations and the “laugh or you’ll cry” elements of combining family and life outside of work with my career at Legal Aid of West Virginia, the opportunities afforded me by my agency’s policies and philosophy on work-life issues have undeniably been a factor in my choosing and continuing to work for a legal services program. Out of my own experiences, as well as my conversations with legal services staff and public interest lawyers at regional and national conferences, I am prepared to posit a few related generalizations: In our current climate it is especially critical that we as legal services leaders and managers engage with and respond to work-life issues and policies. Against a backdrop of stagnant salaries and shrinking resources, the inducements our agencies’ family friendly policies afford to our most talented and marketable staff will be critical to enabling legal services programs nationally to keep key employees on board and to attract quality staff where we do have position openings.

In one of my non-day job commitments, I teach a class on domestic violence to law students at West Virginia University (WVU) College of Law, and also serve on the College of Law’s Visiting Committee. In those capacities, I have had the chance to talk with law students about their career aspirations, and to review statistics regarding the declining number of female students nationally who are applying to law school. As relayed by the Dean of WVU College of Law, law school deans and admissions personnel nationally are, in significant part, attributing the recent drop in female admissions to law school to female students’ concerns about their ability to balance a family and quality of life against a career as an attorney in the majority of for profit settings. We need to be vocal about the opportunities that can be available to law students, both male and female, who pursue a career in a legal services setting. Students who would otherwise opt out of pursuing law school, or who are looking for more family friendly options upon graduation should be aware of the potential work balance benefits we offer. Working as leaders and managers to secure funding to invest in competitive staff salaries, and to expand opportunities for law school loan forgiveness programs, despite the challenges of our current financial climate, is a critical corollary to promoting, and continuing to offer, a broad range of family friendly workplace inducements.

Our ability to recognize stress, burnout, and

capacity overload in our staff and managers, and to do a better job at creating a workplace philosophy, culture, and policies that counteracts these forces is also essential to limiting turnover and protecting our human resources. While staff certainly bears responsibility for their own “self care,” we also, as managers, should be protecting employees by examining whether there are policy changes, caseload reallocations, or individual short term accommodations that can, when needed, relieve stress and burn out. We should proactively ensure that work is relatively evenly allocated, that the agency is not taking on more than staff or managers can reasonably handle, and that employees are supported by a culture where they are empowered to say no when necessary, to request a short term accommodation (*e.g.*, briefly closing intake), or to ask others for additional help. When we meet one on one with those we directly supervise, it is an opportunity to check for signs of burn out, and to affirm, when needed, the value the agency places on such self care initiatives as taking regular time off and limiting extended overtime. Rather than sending the message to overloaded managers and advocates that they are “the victim of their own success,” by virtue of their demonstrated capabilities (*e.g.*, doing a good job invariably begets more case and project responsibility), it is more productive to brainstorm around creative solutions to ensure better balance and combat stress. Managerial investments of this type pay extended dividends in reducing turnover and increasing quality of services, as expert analysis has shown that the long term impact of managers and staff who are battling “overloaded circuits” is a marked decrease in employee job effectiveness.

Coming at the end of a particularly intense six weeks at the office, several people, including my dentist (who came upon me editing this article while waiting for him to check my films), commented to me on the irony of my working on an article on work-life balance. That and my son’s Valentine are an indicator to me that after a period of particularly heavy work responsibilities, I need to make sure that I am putting some time and energy into pushing the pendulum back towards the “life” end of the spectrum. Thinking about my son’s Valentine also prompted me to remember with some regret how I made my “busy” mother, who was our family’s primary earner, get choked up when, as a teenager, I told her that I could not remember her having had time to play with my brother and I when we were small. (“I played pick-up sticks with you kids,” she replied indignantly.) I have to hope that my child

will come to recognize, as I eventually did, the role my mother’s income played in keeping our family afloat, the fulfillment that being good at what she did afforded her, and its importance to our community.

Luckily, side by side on my desk with the “Adjectives Valentine” there are a number of reminders of some of my better efforts at work-life integration: photos of the family vacations we have been able to take during my son’s school breaks, in part due to my flexibility in scheduling; a picture of my son in the office as a toddler in a Yoda costume; and a more recent picture of Thomas here on a faculty senate day, ensconced in a nest of cushions next to my desk.

One final note in validation of a sometimes precarious balance: This past weekend, I got an email from my son’s former fifteen year old babysitter. I had the opportunity to have dinner with her this past summer, when she was home for a few months between a senior year in college spent in South Africa, and a post-graduate posting as an AmeriCorps volunteer in Washington State. When we had the chance to catch up in person, I was incredibly impressed by the poised and articulate woman she had grown into. In her recent email, she posed a series of questions about her long term career goal that was both surprising and gratifying: despite her up close vantage on my most acute struggles to integrate career and family, she was writing to ask me some questions about becoming a public interest lawyer.

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“...the opportunities afforded me by my agency’s policies and philosophy on work-life issues have undeniably been a factor in my choosing and continuing to work for a legal services program.”



Who Needs Sleep? Thoughts on Community Resilience and Mothering

*By Joann H. Lee, Directing Attorney¹
Legal Aid Foundation of Los Angeles*

For the past thirteen years, I have worked with immigrant women who have survived domestic violence, rape, human trafficking, and sexual exploitation. Before having children, I put my heart and soul into my work — not only with their legal needs but I often found myself offering them rides, helping them flee their abusive homes, monitoring court-ordered visitation, the list goes on and on. Yes, I know about boundaries, and I acknowledge I probably did a lot of things I should not have done. Through all of it, though, I never ceased to be amazed at my clients’ resilience through their darkest hours, especially those who had to care for children on their own without any help from friends or family. Some fled from their abusers while pregnant and had to go through child birth and everything after completely alone. I once had a client call me from the hospital because the nurse told her that her son had to have his father’s last name, and she wanted to ask me if that was true. A small detail — but how overwhelming it must have been to do everything alone. I did not quite understand how amazing their resilience was until I actually had my own child.



As many would agree, having a child was hands-down the most difficult thing I have ever done. I felt like I had been hit by a truck and could not breathe from the fatigue I felt (and still feel). I had to read Anna Quindlen’s essay, *On Being Mom*, regularly to get through it all. I always felt like I was doing everything wrong and wondered when the chaos would end. All the things I swore I would never do, I ended up doing — bribing my daughter with candy, making a mess in restaurants, letting the kids sleep in my bed. I still co-sleep with both my children, who cannot seem to fall or stay asleep without me. This leaves me with little

or no down time to rest, catch up on work from home, or spend time with my husband.

After having my daughter Terin in July 2009, I wondered whether I would ever be able to go back to work with the same passion as before. I wondered how I could care for her fully and take on the same type of cases as before. When I went back to work, I constantly felt guilty for leaving her and guilty for not working as much as I had before. The tug of both worlds always on my mind, I struggled to come to terms with what it meant for my day-to-day life. This became even harder when I had my son Tegyu in August 2011. Even though I pretty much worked through both my maternity leaves, my first full day back at work after having Tegyu, I came home with a migraine headache and vomited from all the stress and “tugging” I felt.

I began realizing, however, that although work and parenting often tug us in different directions, they can also be very much interwoven. In the nonprofit world, many of us talk about the concept and dangers of “secondary trauma” — how we internalize the traumatic experiences of our clients. One of my colleagues pointed out to me, though, that we can also experience “secondary resilience.” Many of my clients are low-income, survivors of extreme trauma and abuse, working multiple jobs, and raising children on their own. This secondary resilience has helped me get through many chaotic moments, especially those lonely days and nights staying up with my crying kids when my husband was late or out-of-town — tasting on a very miniscule level what many of my clients must experience every day. It has made me appreciate everything I have and all the privileges and opportunities I have been fortunate enough to enjoy. And although I am supposed to be the one providing assistance to my clients, experiencing their secondary resilience has been extremely therapeutic for me and provided me

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Caring for the Caring: Minimizing Stress and Improving Morale for Your Staff

By Sharon Browning, *JUST Listening*¹

I know a lot about stress. Among other major life stressors, from 1989 until 2001 I rode the turbulent waves of a serious auto-immune illness, surviving eight



of those long years with the help of daily doses of morphine to ease pain curiously described in the medical community as “exquisite.” If you can answer the standard question, “Where is your pain on a scale of 1 to 10?” your pain is not “exquisite.” That level of horror

renders one mute and in shock.

Happily, I am completely well now, but the experience taught me a great deal about stress and its effects on our bodies, minds, and spirits. It has engendered a fierce desire in me to help create healthy work environments for my own staff and colleagues; I absorb all I can on the topic. So here are a few observations and suggestions to help managers and supervisors minimize stress for themselves and the committed people who staff legal services offices.

It seems facile to observe that these are stressful times for the public interest community. The double whammy of major funding losses and a sour economy producing a tsunami of people in need of services is creating historic levels of pressure on legal aid attorneys and support staff. Add to this the insanity of a political climate that at best ignores and at worst actively exacerbates the suffering of Americans on the margins, and it is a perfect stress-storm engulfing those who devote their professional lives to ensuring justice for all. As Rachel Naomi Remen observed, “The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet.”

Stop for a moment and consider your own staff. What are you noticing? What is their level of physical health? Is there more illness than in years past? What

is the mood throughout your organization? Are you seeing evidence of low morale: cynicism, impatience, bunkered, us-them thinking, anxiety, and depression? How are levels of creativity, innovation, energy and enthusiasm for the work?

Before exploring specific sources of and tactics for managing stress in your workplace, let’s look at the physiology of stress. Understanding how our bodies process stress helps us both to understand what we are seeing in co-workers and to select remedial strategies that are appropriate to our particular circumstances.

The effects of stress are well known and documented. Stress arouses the sympathetic nervous system (SNS), activating hormones that induce a constellation of physiological changes: blood pressure is elevated, non-essential neural circuits are shut down, and our bodies are flooded with corticosteroids. All of this works very well for us humans when the stress we are responding to is an immediate and brief crisis, e.g., an unexpected encounter with a dangerous animal or adversary. It is not effective and even potentially harmful when the stress experienced is more sustained: a potential layoff, unremitting demands for services that cannot be met, even empathy-induced grief for a client’s circumstances. Here’s why.

Many illnesses are rooted in chronic over-activation of the SNS including: heart disease, ulcers, diabetes, obesity, hypertension, autoimmune diseases, and cancer. But the body’s normal responses to stress affect not only physical health, impairing the immune system with the consequence of increased illness; they impact our mental health and our *perceptions* of our circumstances as well. Stress colors how we interpret our experiences: we feel more out of control, are more prone to formulate negative beliefs, draw negative conclusions, and perceive threats. Stress diminishes our capacities for learning, creativity, flexibility, and openness, and increases anxiety and depression.

Again, reflect on yourself and your staff; what have you observed? Are people more resistant to or struggling harder to acquire new skills or adapt to new routines? Have some lost their flexibility, their enthusiasm for the work, dispiritedly plodding through their days? Is even good news given a negative spin? I recently overheard someone comment glumly and sarcastically upon hearing of new funding, "Yeah, we got that big grant, but it's not nearly enough given the need."

In their book *Resonant Leadership*, Richard Boyatzis and Annie McKee note the particularly toxic effect of a common by-product of stress, cynicism:

Cynicism is one of the most destructive manifestations of negativity and dissonance. It causes people to focus solely on what is most wrong with a person, group, or organization, with little or no call on individuals to take responsibility for making positive change. Cynicism is self-perpetuating, breeding frustration and despair—even hopelessness—which in turn breeds more cynicism. In this state, there can be little, if any, movement toward a constructive vision of the future.²

Unless stress is acknowledged and addressed, entire staffs can slide down the slippery slope of depression, creating and hardening a culture of discontent and negativity. I observed the effects of this recently when working with a demoralized, highly-stressed staff whose need for information and reassurance had not been adequately addressed by managers. The staff knew only that the fiscal situation was bad and getting worse; no information, timeline, or plan to address the situation had been communicated. At a day-long meeting, behaviors typical of an activated SNS abounded: one experienced, accomplished senior staff attorney insisted that she could not understand and follow simple written instructions on an assigned task. Support staff grumbled that they were unappreciated, perhaps even superfluous; only the attorneys had status and worth in the program. Victimhood comments were rampant, cynical and even mean-spirited observations were common, and a pervasive sense of impending catastrophe laced itself through many conversations.

Staff members in another office exhibited similar symptoms. Here, there had already been one round of layoffs with another anticipated at some future but

unspecified date. The first layoffs were perceived as arbitrary by many on the staff; there was no clear sense of how those who were terminated had been selected. People were nervously "waiting for the other shoe to drop." It isn't necessary to have all the answers, but it is necessary to eliminate confusion and stop the rumor mill. Communicate whatever information you comfortably can that will give your staff a clear sense of where things stand.

By being intentional and directive, you can minimize the stress of these difficult times and care for the caring people who constitute your staff. Much of the current chaos is external and thus beyond our control, but there are concrete ways to lessen the stress experienced by staff members in the midst of the turmoil. Returning to physiology, the task is to create an environment that fosters the arousal of the parasympathetic system (PSNS). In stark contrast to the functioning of the sympathetic nervous system described above, when stimulated the PSNS releases hormones that create a sense of well-being. We feel positive and happy (even joyful at times); our outlook is optimistic; our ability to solve problems and think creatively is enhanced. As organizational leaders, the best thing you can do to improve morale and maximize the health and productivity of your staff is to create the conditions that activate your own and others' PSNS. Addressing known workplace stressors is a great place to start.

Research on the workplace uniformly identifies three major sources of stress: uncertainty, perceptions of powerlessness, and the belief that one is being evaluated. Anything you do to reduce these specific stressors will improve the health and functioning of your staff.

Uncertainty: Be as appropriately transparent as you can about contingency and future plans. If you are certain that layoffs and work re-assignments are coming, be as clear as you can about the timing and process. Will terminations be performance based? Tenure based? Funding source based? Eliminate as much fear and confusion as you can, and ask for staff input where appropriate. This is a fine line: you don't want to involve staff in details that are your responsibility, but you do want to imbue your staff with a sense of agency and efficacy. One executive director recently informed a staff attorney that his position was in danger because of the loss of a specific grant and asked for ideas about possible funding sources. The attorney used his own network of contacts to secure new and more sustainable funds.

Encourage creative conversations and input from staff about necessary programmatic shifts. Build

community by emphasizing that “we’re all in this together.” Use this time to unify your staff, promote collaboration, and encourage discussions and creative thinking about ways of re-imagining and re-configuring the work. The delivery of civil legal services is undergoing seismic challenges. It is tempting to be reactive and indulge in anxious thoughts of scarcity and victimhood. It is also possible and potentially transformative, however, to greet these difficult conditions with creativity and vision. Now is the perfect time to explore what a fair and equitable justice system ideally will look like in thirty, forty or fifty years, and to begin to build the relationships and structures needed to ensure that the dream becomes reality.

Appropriately involving staff in this way will also reduce *Perceptions and Feelings of Powerlessness* as will a few other simple measures. How much control do staff members have over their own work day and product? Are you utilizing work plans? Do you solicit staff involvement in work plan development? Is there an organizational culture of collaboration and collegiality that encourages the open exchange of ideas and opinions among all, not only senior staff? Are people’s opinions sought and valued?

Employee performance at all skill levels is enhanced when individuals exert appropriately maximum control over their work. The language of empowerment is familiar to our community, especially relative to clients. Extend the concept to your staff and involve them in seeking creative solutions to current dilemmas. As Margaret Wheatley observes throughout her work on organizational dynamics, even in the midst of apparent chaos, the best solutions to emergent issues are local, collaborative, and self-organized. “In organizations, if people are free to make their own decisions, guided by a clear organizational identity for them to reference, the whole system develops greater coherence and strength.”³

Fostering caring relationships among co-workers and encouraging self-care and balance is another key task. Sadly, we often allow our staff to become even more isolated and driven in response to the press of crushing caseloads. This can actually create more dysfunction and discord, enabling workaholic behaviors and creating tension between staffers who work a normal day and those who feel compelled (or even expected) to work longer hours.

It is useful to remember that the human body is capable of performing a total of only five sustained, focused hours of work per day; effort after that is less effective. A refreshed and renewed staff is far more

productive in the long run, and can help create innovative and sustainable responses to current crisis. Care for your staff by encouraging them to have healthy, balanced lives and avoid double-messaging by modeling self-care yourself.

Belief that one is being evaluated: There is no substitute for clear, fair, and consistent personnel policies that delineate the evaluation process within an organization: annual self and supervisory reviews stabilize and reassure employees that personnel decisions are just, not arbitrary. If you do not have a clear written evaluation policy, get one; sample policies are available on the MIE website. If you have one already, be sure that everyone on staff knows what it is and where they can see and reference it. And finally, enforce it. Too often, time pressures result in lack of consistency in performing periodic evaluations. This is fundamentally unfair, especially where job security and advancement may be tied to performance. Erratic evaluation processes undermine employee confidence and sense of fundamental fairness. Conversely, having and enforcing a clear evaluation process has a positive effect on employee morale and confidence.

And while you are caring for your staff, take a good look at your own relationship to stress; are you modeling stress reduction? What are you doing to stay healthy and energized? Self-care is neither selfish nor a luxury; it is essential to healthy, sustainable leadership. If managers and supervisors are not conscious and intentional about their own physical and mental health in the midst of these trying times, there is little likelihood that the office environment will be nourishing for staff. The consequences of this inattention are serious for everyone, and ultimately, for clients as well.

Boyatzis and McKee have identified three indispensable qualities for effective leadership which also, not coincidentally, activate the parasympathetic nervous system: mindfulness, compassion, and hope.⁴ Developing and nurturing these essentials in ourselves is good not only for us personally, but benefits our staffs and organizations as well. Although a thorough discussion of these elements is beyond the scope of this article, it is worthwhile to briefly consider these traits in the context of personal and organizational health.

Mindfulness: Jon Kabat-Zinn defines mindfulness as “paying attention in a particular way; on purpose, in the present moment, and nonjudgmentally.” Mindfulness encompasses awareness and intentionality. To be mindful is to be conscious and reflective rather than reactive.

Research has demonstrated that our species

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spends 95–99% of our waking hours living in our limbic brains, the “middle” brain that is the repository of memory, habit, prior learning, emotion, and unconscious reaction. The problem with this is that there is nobody home in the limbic brain; we are not consciously driving our own bus. Our responses to our environment are unconscious and automatic.

We rarely take the time to consciously access those parts of our neo-cortices where our capacities for intentionality and consciousness reside. Look at your own typical day. How many times, if any, do you have a *conscious thought*, a moment when you intentionally stop, step back, observe your own behaviors and activities? For most of us, this is rare. Our days flash by in a flurry of activity; because we are busy we think we are productive. But most of the time, we are simply on auto-pilot, too pre-occupied with our to-do list to even ask whether the list itself is valid, necessary, useful, or resonant with our deepest longings and aspirations.

The capacity to reflect is cultivated; we have to practice it. There are dozens of ways to do this; explore what methods are appealing to you and play with them. And the next time you notice your pulse or breathing quickening with anxiety, or find yourself awake at 3 a.m. ruminating about what your, your staff’s, or your client’s futures might be — stop. Just stop. Consciously summon and access your brain’s phenomenal ability to witness your own behaviors, emotions, and responses. Recognize that there are positive, life-giving ways of framing your issues and taking action that can help you live peacefully and hopefully, even in the midst of great distress. And then, with conscious, deliberate intention, choose them.

What about your staff? Do you create space for and encourage your co-workers to take time to be thoughtful, to reflect deeply on issues facing your clients and organization, to listen deeply to the promptings of their own wisdom and that of their colleagues? Something as simple as regularly taking five or ten minutes of a staff meeting to invite reflective discussion can provide a

What about your staff? Do you create space for and encourage your co-workers to take time to be thoughtful, to reflect deeply on issues facing your clients. . .

tangible shift in attitudes and behaviors. More rigorous and sustained efforts to engage in these practices yield even greater results.

Compassion: Most of the people working in legal services offices are there because they want to be. They care deeply about others and see their work as helping to create a more just society. Acknowledging and celebrating this in yourself and your staff can be heartening and help build community. Provide people with an opportunity to discuss why they do the work they do, what motivates and sustains them, what they are passionate about.

Acknowledge too the depth of grief and loss that co-workers often feel. Work in the public interest sector is emotionally rewarding but also extremely challenging. A healthy workplace honors the depth of employees’ experiences and supports healthy expression of and management of the powerful emotions that often accompany the work.

Hope: There are many definitions of hope, but we can probably agree that hope has two elements: an expectation of positive outcomes, and a belief that those outcomes are possible. Hope feels good, is contagious and empowering. Boyatzis and McKee identify three essentials for the cultivation of hope in the workplace:⁵ The leader:

- needs to have dreams and aspirations, but also be in touch with those of the people around him or her. This helps to form the desired image of the future.
- needs to be optimistic and believe in his or her ability to make change.
- must see the desired future as realistic and feasible.

In my experience, these are the qualities needed not only by leaders, but by others in the organization. Social change is a corporate endeavor; none of us can do it alone. Lead by example, but engage those around you in the process of change; draw inspiration and strength from your colleagues and companions on the journey.

David Hall has noted that “Justice is a journey, not a destination.” No matter what is happening along the way, the work of justice itself is energizing and engenders hope. Now more than ever, justice in the workplace is a high-stakes, high-impact undertaking: ensuring sanity and health in our own workplaces is as much an act of justice as anything else we do. It is an essential and indispensable part of the justice journey, and can bring new life to the workers and the work.

1 Sharon Browning currently has her own consulting and training project, JUST Listening, fostering social and



Two Perspectives on Life Styles in Legal Aid

*By Victor Geminiani, Executive Director¹
Hawai'i Appleseed Center for Law and Economic Justice*

When I first began thinking about what I could contribute to this special feature on flexibility of work assignments and employee schedules, my mind went instinctively to the many challenges managers confront in establishing and implementing policies that support flexibility within competing interests. Most of my initial core management principles that came to my mind were centered on a message of “be careful.” All of a sudden I had an epiphany. I realized that during my time in our profession, I have been without a doubt the biggest beneficiary of policies encouraging and supporting workplace flexibility that a legal aid program has ever employed. I hope my two competing perspectives as both an employee and a manager might constructively underline the importance of managers allowing significant flexibility in schedules and assignments but be selective in the application.



Thank God for Workplace Flexibility

What started out for me in 1969 as a short-term adventure to work in the South as a Vista Volunteer lawyer with the Atlanta Legal Aid Society has become a lifetime occupation. Why did that happen? It never occurred to me at the beginning that this was an option for me. Perhaps because of the culture I experienced and/or the values I adopted when I came of age during the 1960s, I have always treasured lifestyle over material success. That is not to suggest that I have not led a comfortable life. I cannot imagine a more magical place to live than Hawai'i or a better occupation for a lawyer than as a “soldier in the war on poverty.” It is to suggest that I know that I would not have survived without the programs that employed me consistently tolerating my absence from a traditional workplace location for long periods of time. Without exception, my legal

aid employers have always supported my requests for schedule and location flexibility to follow my wanderlust for travel, my joys as a parent and my physical need for periodic releases from the stress at work.

My requests (all honored) have been pretty outrageous at times. During the first half of my career, I made a habit of taking sabbaticals approximately every seven years for nine or more consecutive months. Throughout most other years my vacations away from work lasted usually more than a month. Time away from work gave me an opportunity to periodically get my travel and adventure fix, spend quality time with my family and recharge my energy. It also gave me a chance to reaffirm my commitment to the work we do. Perhaps, most importantly, it allowed me time to reflect on my work experience (both good and bad) while exploring ways I could improve.

After a divorce in 1999, my daughter moved to Charleston, South Carolina. To maintain consistent contact with her, the staff and board of the Legal Aid Society of Hawai'i tolerated my repeated absence to visit with her for ten days every two months and work afternoons from my home during the summer months when she came to visit in Hawai'i. While she is away for college, I have grown to depend upon the freedom to work from home and still liberally use the permission to do so.

So what does this all mean for me? The flexibility and support my program partners have given me over the years have definitely enriched my life. Without the freedom that work location and schedule flexibility has provided me, I doubt I would have remained in legal aid for all of my working life. I don't have a clue what else I might have done. Fortunately I never had to consider any options.

I know that I have become more technologically literate and hopefully more productive because of the challenges I faced trying to fulfill my program responsibilities when I left for long periods of time. Absences

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that lasted many months required the development of close partnerships and consistent visions with other program managers. That is always a good thing. I know that I became more sensitive to the particular needs of other staff for flexibility in work assignments or schedules and familiar with the methods to support those needs. I know I have made the right personal choices for my work both in career and life style. I am a content and loyal employee with a great appreciation for the support my employers and coworkers have shown me. Hopefully I have returned their graciousness by being productive and an asset to the programs that have employed me.

Watch the Minefields

Having personally benefited so much from program policies and etiquettes that support personal needs, it might seem hypocritical that I also believe such policies should be selectively applied. As managers we are all faced with multiple challenges when considering the adoption and application of program policies on workplace flexibility. Our ultimate responsibility to our boards and our client communities is to ensure our programs are relevant, efficient, productive and effective. Flexibility in assignments and schedules can help achieve that goal if properly applied. If not, staff morale and productivity along with the quality of client services will suffer.

The hardest job we have as managers is exercising our judgment about whom we hire and how we reward staff excellence or deal with mediocrity. Each of our employees has certain personal ambitions in their life and a list of "gotta haves" to remain satisfied. Each will react differently to the availability and application of program rewards. Some need public recognition for their work while others want increased monetary compensation. Some desire freedom to maximize professional growth by working long hours or satisfy personal demons involving their work ethics while others require time off from work to enjoy time with family or explore outside activities.

Make no mistake. Approving flexibility in work assignments, location or schedules are all significant rewards that telegraph to the employee as well as coworkers trust in his/her performance and appreciation for their contributions to the program and our client community. As with all rewards, managers must be sure to provide the rewards necessary to help

enhance program loyalty and performance by those who are contributing to program excellence. Withholding program rewards from poor performers is just as critical, since to do otherwise sends the wrong messages about program expectations and the value of the limited rewards available in most programs cease to be appreciated if universally applied.

Even more importantly, not all employees have developed strong work habits or the discipline to be productive when location or work schedules are changed from the traditional office protocols. Often the interaction with other staff members will suffer unless schedules are developed that help overcome the potential for isolation. Clear expectations must be established, understood and accepted.

When considering adopting program policies that will permit workplace flexibility, managers should maintain the authority to approve or deny requests by employees to change workplace assignments, schedules or locations. Each request should be analyzed by considering the importance of the request to the employee; his/her proven skills and reliability to continue their productivity; the potential negative consequences on the program, coworkers and the client community; the availability of backup plans if the employee's performance suffers; the precedent established; and the signals approval or denial of the request will send to others.

Whatever the decision, the process used to review the request as well as the outcome must be fair and objective or you will suffer the consequences.

When considering policies on workplace flexibility, take time to learn from the experiences of other programs that have adopted similar policies. Find out what has worked and what has not, as well as how they have dealt with the challenges they have faced in the application. Each policy should be considered within the context of the existing culture in your program and staff expectations for change. As with all change, evolution is preferred so that decisions on policy expansion and application can be informed by experience.

Many of us have decided to serve in a nonprofit environment specifically because of the perks offered. Strong programs offer productive employees ownership in the direction of their careers, a supportive environment that hopefully nourishes their individual needs, and an opportunity to have an important impact on the lives of others. Providing flexibility in fulfilling our individual responsibilities is a critical factor in encouraging program loyalty and rewarding performance.

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Reflections on Work-Life Balance

The MIE Journal Committee invited a number of our legal aid colleagues to reflect on the concept of work-life balance, triggered by the discussion which ensued from Anne-Marie Slaughter's article in The Atlantic, "Why Women Still Can't Have It All," which discussed challenges professional women continue to face in balancing their home and work life. MIE asked male and female authors to discuss: How do you take care of yourself? How do you bring balance to your life and keep your passion professionally? How does your legal aid organization support you in this? As a manager, how do you help staff achieve work-life balance? We invite Journal readers to share with us their additional thoughts on this topic.

Today, and Tomorrow

How do I find a good work-life balance? First, I am fortunate to work at a legal services organization led by an executive director who encourages our staff to

achieve excellence at work but also understands the importance of having a meaningful personal life.

For me, the failing economy during the past several years has resulted in increased financial stressors both at work and at home. There are days when these stressors can be hard to manage without feeling overwhelmed. As

a single mother of two children, I am responsible for more at home than if I shared those responsibilities with a partner. The financial constraints we face at New Hampshire Legal Assistance, much like the constraints felt by most legal services programs across the country, require us to continue to serve more clients with considerably fewer staff and resources. At the same time we know that many of our clients are facing serious economic difficulties themselves and need our help now more than ever. These can be difficult day-to-day challenges.



As a manager, I try to maintain a positive outlook at work. I take the time to support and encourage my co-workers in their work and also show an interest in their personal lives and families. I try to approach each day as a new opportunity to bring my best efforts to my work. I wake up at the crack of dawn, get to work as early as I can, and leave work at a reasonable hour. It is important for me to do quality work each day, but also to set aside time to spend with my children, friends and family. Both on and off the job, I look for opportunities to take on tasks and engage in activities that recharge and reenergize me.

One of the biggest challenges of achieving a healthy work-life balance is to come to terms with the fact that no matter what, there will ALWAYS be more to do at work and at home than I can ever complete. There simply aren't enough hours in the day. So if I leave behind a messy desk at work, or if the dog hair at home is conspiring to take over my entire house, so what! Tomorrow I will make it better or will try not to worry too much if I don't.

Legal services work is exhilarating but it can also be draining. It is important to recognize that without balance in our lives we cannot bring our best selves to our work and our clients day after day. Right now, my prescription for bringing a healthy balance to my life is to try to eat well, stay fit, practice yoga often, and find opportunities to share good food, wine, and conversation with colleagues, friends and family whenever possible. Get outside often! Try something new! Laugh whenever you can! All of these approaches bring high returns at low financial costs and help me to return to work each day with new energy and optimism to face whatever the day may bring.

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Balance

How do I take care of myself? Because I am continually confronted with individuals in crisis, I have found it difficult to prioritize my own non-emergency needs and interests. After reaching the point of near burn-out years ago, I realized that I was a better advocate for my clients if I was a happy, healthy, fulfilled individual. This awareness has allowed me to obtain a better balance between work and non-work activities because I know that it will ultimately benefit the people I serve.



Balance continues to be a challenge. With reduced staff at our organization and a struggling economy, those of us who continue to work in our legal aid programs are met with increased responsibilities and even greater unmet need. I have found it important to avoid work email as much as possible during my personal time, because work-related requests will always feel more urgent than the household tasks, the phone call to a family member, or the social obligation I scheduled. Positive client outcomes continue to propel me through difficult times and maintain my passion for public interest work.

Everyone is under pressure to produce high-quality work with shrinking resources, but if I am working more hours, it is not the result of my supervisor pressuring me. We are encouraged to remember that we have personal lives and to nurture those relationships.

Dianna Parker is the Pro Bono Coordinator at The Legal Aid Society of Columbus. A 2005 graduate of The Ohio State University Moritz College of Law, Dianna started her career at the Equal Justice Foundation as an Equal Justice Works Fellow advocating for the rights of students experiencing homelessness. She has practiced in the areas of education and housing law. Dianna may be reached at dparker@columbuslegalaid.org.



Self-Care and Balance in a Fully Charged World

Taking care of one's self in today's world is a never ending struggle. Twenty-four years ago when I began practicing law, you could unplug at the end of the day and go home. Weekends were a time for peaceful

enjoyment of a book or movie, or time with friends and family. No more! We are connected 24/7, with others having the expectation that we are available any time we are connected. I admit to being from that "other" generation where the wonders of modern technology didn't exist. I think I've embraced the new technologies and use them effectively, but I don't allow them to take over my personal time. So, how do you take care of yourself when you are expected to always be available? Boundaries must be established that provide for the time needed to recharge in a fully charged work environment. This is often easier said than done, especially when other staff members choose not to set similar limitations on access during non-work time. The key is to decide for yourself how connected you want to be during what time and communicate that effectively to others without appearing to be inaccessible.

The technology piece ties into the bigger picture of balance in life generally. How do we maintain a balance while keeping passion professionally? For me, diversity of work responsibilities has been the key throughout my career. I have been afforded many opportunities to take on new and exciting challenges over the years. I am absolutely convinced that if I had been doing the same thing for the past twenty-four years at legal aid I wouldn't still be around. I am driven by change and new challenges. My organization has supported that passion by providing me the opportunities to stay fresh and to use my talents to better the mission of the organization. New responsibilities necessarily involve a great time commitment. Here is where the true balancing act comes in for me. I know that when I undertake a new or different task that I must devote 100% of myself over a period of time. I also know that while my home and personal life may suffer during this time that I will make up for it when things even out. I am fortunate to have supportive people in my personal life that understand this and accept that I may work long hours and come home stressed, but that I know how to take care of myself and not let it overtake my world. When the down time comes, I take full advantage by leaving the office at a reasonable hour, by taking weekends off, by taking allotted vacation time, and by actually leaving.

Balance in one's life given today's work environment may be an elusive goal, but is something to which everyone must aspire if they are to be the best advocates for their clients and our cause. Passion and dedication can't be learned; they come naturally through doing what is important. Maintaining a balance between the professional and the personal makes it

possible for legal aid advocates to keep doing what is important while having the fulfilling lives they deserve and that allow them to fully express their work passion.

Debra House is an Associate Director with Legal Aid of East Tennessee where she has practiced poverty law for twenty-four years. Deb is a past chair of the Tennessee Bar Association's Access to Justice Committee as well as a past president of the Board of Directors of the Tennessee Alliance for Legal Services. Deb received her BS degree from Western Michigan University and her law degree from The University of Tennessee College of Law where she has served as an adjunct professor. Debra may be reached at dhouse@laet.org.

With the Assistance of Managers

I generally love my work and feel very committed to our cause. But when my work takes more time away from my family than I think it should, it's easy to start



resenting the work. Colleagues from my generation all seem to share a commitment to spending quality time with our families and engaging in activities outside of work. I think we are healthier and better attorneys when we have evenings and weekends truly away from work. The best

way managers can help with that is to understand staff attorneys' caseloads and the time commitments that those cases require, and then to assign cases and other tasks accordingly. Everyone understands that managers cannot plan perfectly and that sometimes cases will require more time than others. But if we make work/life balance a priority for employees, and regularly dialogue about how we are doing, I think that would be positive for our clients and ourselves.

Meredith Schnug is a Staff Attorney with the Legal Aid Society of Southwest Ohio, LLC. She represents victims of domestic violence in family law matters and serves as an Attorney/Guardian ad Litem for children in child welfare cases. Meredith may be reached at mschnug@lascinti.org.

A Positive Work Environment



Our office environment sets the foundation for work-life balance. My supervisors and coworkers help support me in my advocacy efforts and help me maintain valuable connections to other social justice activists. As a transplant,

the collegial office atmosphere helped me adjust to the community and I have been fortunate enough to form friendships among our staff.

In the office, we strive to regularly discuss our work, even our individual projects. We also try to stay reasonably healthy. Our deputy director recently built a walking desk to be shared among the office, which helps break up the day. I enjoy contributing vegan dishes to our themed-potlucks. I may not surf at lunch, but our location means that I can always step out of the office and sit under palm trees or see the ocean. I feel balance is not necessarily maintaining a day-to-day equilibrium between work and play—it's often not realistic given the nature of our work—but a positive work environment combined with regular small pleasures means that I experience an overall sense of balance.

Jenny Lee is a staff attorney at Hawaii Appleseed Center for Law and Economic Justice. Originally from Portland, Oregon, Jenny moved to Honolulu to join Hawai'i Appleseed Center for Law & Economic Justice after graduating from law school in 2011. At LEJ, she focuses on affordable housing, school nutrition, education, and legislative advocacy. Jenny may be reached at jenny@hiappleseed.org.

Go Home Soon

When I was a young associate in private practice in an established law firm, I was given semi-annual performance reviews. The review consisted in part of



forms, completed by partners, that graded me from 1 to 5 on thirty or so performance standards. One of the standards, on which

I was graded from 1 to 5, was "ability to put firm goals ahead of personal goals."

We do things differently at New Hampshire Legal Assistance. The organization supports work-life balance mostly by *meaning* it. Many law firms and other businesses talk about work-life balance, but NHLA walks the walk. Our executive director makes the rounds every evening before he leaves, admonishing those of us still there to "go home soon." At first, this stunned me. No one in private practice ever said this. Now, it makes me smile.

The work itself inspires enthusiasm and passion. Every day, I am plunged into a Dickens novel, and I get to be the character that shines a small light of justice

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and compassion into some very dark places. How cool is that? Give lawyers this work to do, and we don't need to be lashed by external forces to put in the hours needed, sometimes late and on weekends, to get it done.

The work is also exhausting, as we, despite our best efforts, take each twist and turn personally, and absorb some of our clients' anxiety. There is always more work than we can do. My personal method of recharging is to spend my days off engaging in as much manual, un-lawyerly labor as possible. I tackle small construction and landscaping projects, I drive a Case 580L tractor-backhoe, and I tap maple trees. NHLA supports me in this by allowing me to work four 9.5 hour days, and recharge during the other three days. Also, my colleagues are actually interested, and not embarrassed, to hear about my exploits, which I find very supportive.

Since the "go home soon" approach is expressed from the very top of our organization, I try, as a manager of one of NHLA's branch offices, to channel that approach to everyone in the branch. We act as each others' safety brakes at case acceptance meetings, to prevent advocates from heaping too many cases on their plates. I instituted semi-regular sessions on Fridays at 5:00, to enjoy beer and chips and unwind the week together. I remind advocates often that NHLA can't put our clients' lives in balance. All we can do is our competent best with the task we're given, and then take comfort in knowing that the client was better off on this occasion with us than without us. That's a great personal and organizational goal.

Stephanie Bray works at New Hampshire Legal Assistance, where she manages the Concord Branch Law Office. Stephanie obtained a Bachelor of Arts from Oberlin College and a Juris Doctor from the University of Virginia. From 1987 to 2007, she practiced at Wiggin & Nourie, PA, in Manchester, NH, concentrating in commercial and franchise litigation. Stephanie joined NHLA in 2007. Stephanie may be reached at sbray@nhla.org.



Finding Joy within the Law

Justice Joseph Story, one of my legal heroes, said of the law: "I will not say with Lord Hale that 'The Law will admit of no rival' . . . but I will say that it is a jealous mistress and requires a long and constant courtship. It is not to be

won by trifling favors, but by lavish homage." As usual, I have found Justice Story to be right. The successful, and I would add enjoyable, practice of law demands much devotion, and this is especially true when regularly serving vulnerable clients in need and crisis. Looking at my life, and over twenty-five years at the Bar, some would say I have not found the balance between the law and the rest of life, for I balance out the practice of law with more law. Yet it works for me.

I manage the ten-county Southern Region of Legal Aid of East Tennessee (LAET) with offices in Chattanooga and in Erlanger Hospital. I was with a leading litigation firm in Memphis for a decade before entering the Legal Aid management in 1997. Over the years, my enthusiasm for the law has not diminished. I believe a few things have helped me to retain this enthusiasm, a strategy I learned from the joyous judge I clerked for back in the 1980s. Foremost, I keep people around me who are also enthusiastic about the law.

Since 1999, I have been an adjunct professor in the Political Science Department at the University of Tennessee at Chattanooga (UTC). With the approval of LAET, I teach one fifty-minute class in the fall and spring semesters at noon three days a week. My courses are introduction to judicial process, constitutional law, and civil liberties. This brings me in constant contact with young, bright college students, many who are pre-law, and full of excitement and curiosity about the law. Their enthusiasm is infectious and reenergizes me. This also keeps me engaging in the great cases and judges that first pricked my interest when in college and requires me to follow legal developments I might not otherwise. As an extra bonus, I periodically run into a former student who has become a lawyer and they thank me for getting them enthusiastic about law. So, it is a two-way street of encouragement.

I also continue to study my favorite areas of the law as an author. I have published over forty articles and book chapters on law and legal history. So, even when my practice is not leading me into exciting, challenging legal areas, I still can explore them as a writer. And, as part of my job at LAET, I often prepare unconventional free CLE courses as a way to thank our pro bono attorneys. Recent courses have been "James Madison and the Constitution," "The Constitution and the Civil War," and "Elvis Law." These were easy to create using my college lectures as the foundation.

Finally, I try to keep people enthusiastic about the law around me at Legal Aid. I have some influence in hiring, and I strive to recruit those who love the law and find fun in the practice of it. Like with my

students, I have found enthusiasm to be a two-way street. I work to communicate my excitement about the law and their excitement energizes me in return. I foster this by frequently meeting with these lawyers in my office in fun, free-for-all exchanges about our cases. The collaboration generates creativity from which our clients benefit. Hence, there are many ways to find joy within the law.

Russell Fowler is Associate Director of the Southern Region of Legal Aid of East Tennessee (LAET). He earned his B.A. (1984) and J.D. (1987) at The University of Memphis and served as the law clerk to Chancellor Neal Small of the Chancery Court of Tennessee at Memphis. Fowler teaches at the University of Tennessee at Chattanooga and was named the university's outstanding adjunct professor in 2005. He has over forty publications, including works for The New England Law Review, The Journal of Supreme Court History, and the Smithsonian Institution. Russell may be reached at rfowler@laet.org.

Thinking Long Term

You would think that work-life balance would not be a problem in Hawaii, but I've found that the draw of



our important work is stronger than the allure of the sun and the ocean. Living and working here can end up feeling like year-round summer school if you are not careful. Here are three helpful concepts on finding balance that folks I look up to have shared with me:

- **Just say no.** Just saying no does not only apply to harmful things; it applies to good things too. There are so many good things we can do, and never enough time to do all of them. Doing good things can get in the way of doing things that are truly extraordinary. Step back periodically and evaluate whether what you are doing is the best thing you can to make the changes you want to see in the world or the lives of those you are helping. Reserve “yes” for the best.
- **Think long term—really long term.** I've heard the warning often: “You never hear anyone on their deathbed say ‘I wish I'd worked more.’” It is tempting to think that we, working in legal services, are exempt from this counsel because our work is so important, fulfilling, and righteous. It still applies. If our closest personal relationships suffer because of our work, we will live (and die) to regret it.

- **To everything there is a season.** Part of thinking long term is recognizing and accepting the natural ebbs and flows of work and life. There will be times when your loved ones will have a greater need for you, and work will take a back seat. Embrace and cherish those times instead of feeling guilty about neglecting work. Likewise, embrace the seasons that work takes up a greater part of your life—they are a necessary and even wonderful part of your life's work. As you paint your life's picture, do not worry that it looks odd and imbalanced as you progress. Just aim to make it beautiful when it is complete.

Gavin Thornton is the Deputy Director of the Hawaii Appleseed Center for Law & Economic Justice. He has worked in legal services in Washington State and Hawaii since 2002. When not working, he enjoys playing music and going on adventures around the island with his wife and three young daughters. Gavin may be reached at gavin@hiappleseed.org.

You would think that work-life balance would not be a problem in Hawaii, but I've found that the draw of our important work is stronger than the allure of the sun and the ocean.

🕒 ENHANCED PLANNING *Continued from page 17*

- with more experienced teams. For this reason, an executive director or board of directors may want to spend time cultivating a leadership team three to six months prior to starting EP as described here.
- 4 A theory of change is an assertion or fundamental assumption about how the world works and the effect of an organization's work on the world. I would equate this somewhat with the concept of “world view,” a core conviction that asserts how the organization operates in the world.



Promoting Work-Life Balance with Concrete Policies and Practices

*By Christine Mandiloff, Communications Director¹
Montana Legal Services Association*

At Montana Legal Services Association (MLSA), we have embraced and supported a healthy work-life balance for our staff for many years. We understand that dealing with clients' legal and life issues, as well as supporting that work, can become all-consuming and cause employees to burn out. MLSA's work-life balance initiatives arose from the recognition that a component of effectively serving clients is caring for ourselves in order to have the health, energy, and positive outlook it takes to do the hard work we do. Not wanting to give lip-service only to the value of work-life balance, MLSA implemented concrete policies and practices so that balance could be more than an ideal.



A wellness policy is the most recent example of MLSA's commitment to a healthy work-life balance. Under the policy, MLSA employees may use up to three hours per week of sick leave for "wellness time" which includes physical exercise and wellness activities such as participation in Weight Watchers meetings. Employees are required to get approval from the Executive Director for specific activities and supervisor approval regarding their schedules. In addition, the policy encourages supervisors and managing attorneys to promote office-based wellness resources such as wellness libraries and wellness rooms or nooks for exercise or breaks. The policy reflects that MLSA will help with the costs of creating such resources as available. The policy also supports the collection and maintenance of wellness information for the employees' benefit on the organization's intranet. MLSA intends to add an annual financial benefit that can be used toward individual employee wellness expenses once resources allow.

MLSA Director of Strategic Focus and Development Elaine Dahl is a staff member who not only enjoys the wellness policy, but helped create it. Elaine says, "I started running to relieve stress in graduate

school, and it has been essential to my mental health throughout law school and my professional career. But in my first year working in legal aid, I kept canceling and postponing exercise so I could get more done at work. I was under stress, frequently sick, eating unhealthy foods, and often sleeping fewer than five hours per night. And when I did get out for a run, I was significantly slower. When I realized I had gained twenty pounds and was the heaviest I had ever been in my life, I knew I needed to change. Ultimately, I worked with our executive director (my supervisor) to alter my duties and make more time for running and other non-work activities. With those changes, I returned to my normal weight and began running faster again. And later, I was very happy to help craft a wellness plan so my colleagues would not have the same experiences I did. My favorite aspect of the plan is the ability to use a limited amount of sick leave as 'wellness time' to exercise, as I would much rather invest my time running on a trail to improve my health than waste it on stress-induced illness."

As Elaine's experience demonstrates, allowing employees to use sick leave for exercise inspires them to take better care of themselves. Another staff member, who prefers not to be named, said having permission to use sick-leave for exercise is a nice benefit and valuable to her own exercise program.

Another way that MLSA promotes a healthy work-life balance is through supporting flexible and work-from-home schedules. Realizing that many employees are most effective when they are occasionally able to attend to personal matters during normal business hours, MLSA allows staff to attend to their personal appointments and calls as needed unless it becomes disruptive to the effectiveness of their work, to other staff, or to the services the organization provides. Likewise, MLSA has allowed employees to work out of the office—either at home or at other venues—when they can show that they maintain the same high quality

standards of work they demonstrate in the office, that the absence doesn't negatively affect the ability of other employees and those outside of the organization to contact and work with them, and that MLSA services aren't hampered or disrupted. Towards those goals, out-of-office employees are required to maintain a technological presence by being available via an organization-wide instant message system, through email, and by phone.

As MLSA's Communications Director, I enjoy a schedule that allows me to work from home about half-time; the other half is spent in the MLSA office. My schedule began on a trial basis, in part due to the organization's need for additional office space. But as an introvert who works best in quiet and with a minimum of distractions and interruptions, the opportunity was ideal for my work-style. I have developed a home-office routine that keeps me focused. This includes getting dressed for work every day—no pajamas, keeping regular office hours, and using an instant message tool, email, telephone, and web cam to communicate frequently with my supervisor and coworkers. I am more productive working at home and believe I do a better job than if I were in the MLSA office all-day, every day. I am more positive about my tasks and about MLSA as an organization and I appreciate the time I spend with my coworkers more.

MLSA has even managed to proactively support healthy work-life balances during difficult times—those of reduced funding and lay-offs. Strategic steps have been taken to help reduce employee stress and potential for overwork in those situations. Direct measures have included reviews and adjustment to employees'

work goals and activities in order to accommodate the changes, so that additional work was not simply loaded onto already significant workloads and responsibilities.

Offering work-life balance opportunities obviously cannot be undertaken without consideration of management challenges and staff productivity. A manageable initiative or practice requires the understanding that it may not work for everyone. For instance, there are some MLSA staff responsibilities that by their nature require staff to be present in the office at certain times, such as answering the MLSA HelpLine or managing the front desk during business hours.

While MLSA's initiatives have not been in place for long, no significant issues have presented themselves thus far. The greatest challenge has been reframing staff perceptions about what it means to be a responsible and effective employee. For some it is hard to let go of the stereotype that an employee has to be at his or her desk in the office during certain hours to be productive. However, MLSA foresees that as time passes, its work-life initiatives will result in greater productivity and effectiveness, as well as happier employees, and those results will convince even the skeptical.

- 1 Christine Mandiloff is the Communications Director for Montana Legal Services Association. With MLSA since 2002, Christine has worked as a litigator, community education attorney, project manager, and supervisor. She is now enjoying learning the ropes of effective non-profit/legal services communications, and grateful for the healthy work-life balance that MLSA affords her. Christine may be reached at cmandilo@mtlsa.org.

A wellness policy is the most recent example of MLSA's commitment to a healthy work-life balance. Under the policy, MLSA employees may use up to three hours per week of sick leave for "wellness time" which includes physical exercise and wellness activities such as participation in Weight Watchers meetings.



Mindful Communication Skills: Powerful Tools for Building Social Justice

By Valerie Brown, JD, MA, Lead Smart Coaching, LLC

What is Mindfulness?

The practice of law while rewarding on many levels can be especially demanding for legal services attorneys and managers who face ongoing reductions in state and federal funding, crushing caseloads, and low morale, among other issues. Many of these lawyers report burn out and stress-related physical and emotional conditions, which strain a lawyer's work performance and home-life balance.



While the Rules of Professional Conduct demand greater civility, lawyers are increasingly burdened by crushingly high expectations, anxiety about keeping up with the workload and home responsibilities, and the complexity of representing low-income clients.

Mindfulness meditation, the practice of nonjudgmental awareness of what is happening inside and around us in the present moment, is innate to every person, and may be the key to helping legal services lawyers regain greater balance, resilience, and happiness. The 2500 year old practice of mindfulness, a central element of Buddhism, was developed to enhance awareness and wisdom to help people live each day with greater ease. Today, decades of clinical research supports the use of mindfulness practices, which have been widely adapted across disciplines: education, business, medicine.

Mindfulness goes deeper than simply generating feelings of relaxation and calm, or developing a toolbox of mind techniques, it is an embodied practice that creates an inner balance that allows for greater emotional stability, with clarity to act and respond with greater understanding. While mindfulness is innate, it requires practice, incorporating elements of mindfulness in daily life: eating mindfully, sitting mindfully, walking mindfully, speaking and listening

mindfully, even resting mindfully. In other words, our daily, routine and habitual activities take on a quality of awareness and acceptance that is infused with greater concentration, which leads to a greater capacity for wise action. Further, the capacity to accept our afflictive emotions, like jealousy, resentment or anger, moves us from the self-referential mindset that keeps us constantly second guessing ourselves, holding ourselves to punishingly high standards, or berating ourselves and into greater ease and peace of mind.

Mindfulness and the Law

In the legal profession, whose culture emphasizes speed, stress, and adversarial energy, meditation's capacity to positively impact one's view and style of work provides an especially attractive possibility. Practicing meditation and incorporating a meditative perspective can thus have a transformative effect on law practitioners and on the practice of law. It helps us to approach situations with a fresh perspective and to transform tendencies toward anger and self-righteousness into the energy needed to serve one's clients and justice more effectively.

Thirty years of clinical studies and the last fifteen years of scientific research on the brain confirm the benefits of mindfulness meditation practice. We now know through scientific research that what happens in the mind changes the brain/body in temporary and in lasting ways, and what happens in the brain/body affects the mind. Science confirms ancient wisdom: the body and mind are one.

The health and psychological benefits too of regular mindfulness practice have been well documented, including reducing stress, anxiety, and improving feelings of well-being. Regular practice of mindfulness helps us to access our innate capacity for mindfulness. Nonjudgmental awareness of the present moment is an important step toward strengthening attention and

awareness of the present moment, and for lawyers greater focus and clarity. While this may sound simple, it can be quite difficult because of the fast-paced, nonstop pace of our lives.

How Does Mindfulness Work?

Does this Sound Familiar?

Paul, 58, a long-time legal aid lawyer has just completed a particularly difficult trial. He decides to take a long weekend to re-charge. Instead of enjoying the time away with his family, he constantly replays every aspect of the trial in his mind. He returns to work feeling anxious and stressed, but says to himself, "I'm a litigator, I can do this."

Carol, 35, a mid-level career legal aid lawyer and manager, finds it difficult to "stay present" in tense negotiations. She is overwhelmed by client demands, feeling frustrated, even angry with clients. Driving home after a contentious day at work, she finds her heart racing, unable to catch her breath.

Stan, 60, a top-ranking public defender, has spent his career "trying to make life better for his clients." He strives to "do his best" at work and at home. Lately, he has become cynical, even bitter when people around him "don't live up" to his high standards and expectations. He finds it difficult to sleep at night and has become increasingly argumentative with family and friends.

Paul, Carol and Stan share a common complaint: anxiety, stress and uncompromisingly high standards overwhelm. Developing a practice of mindfulness can help in each case. Studies of neuro-plasticity of the brain show that even as little as five to ten minutes of sitting meditation several times each week and in as little as two weeks of practice, show noticeable changes in the brain. This means that we can take responsibility for our brains, our bodies, our feelings, our reactions.

Pause Practice — How to Practice

- Find a comfortable place to sit and sit in a relaxed manner.
- Allow your eyes to be opened or closed.
- Bring your awareness to the fact that you are breathing.
- Follow the breath as it comes in and goes out of the body.
- As thoughts arise, notice them, and notice the nature of your thinking, whether the thought is a thought about planning, judgment, anxiety, or calm, and bring your attention back to the sensation of breathing in and out.

- Practice in this way for two to five minutes.

The first step in developing mindfulness is to stop, take a moment to pause. Given the relentless pace of today, pausing in daily life, "stopping" the chatter, the noise, the go-go-go, is a critical competency of every lawyer. Stopping gives us the ability to take stock of what is happening now inside us and around us, about to choose to act and not react, using the wisdom of the body as a vehicle for tremendous learning about the mind. Research done at National Institutes of Health and other places supports the idea that the cells in the body have brainpower, and because of that, our body often knows things before our brain does.

The second step is to become aware of or notice the fact that you are breathing. Notice the breath come in and go out, without judgment. Notice whether your breathing is shallow or whether it feels deep and full. Again, there is no need to do anything other than observe what is happening in real time.

The third step is to notice your feelings, your state of mind. Notice whether you are feeling overwhelmed, tired, frustrated. Again, there is no need to change the feelings, just notice your emotional state of mind.

Finally, when you notice that you are lost in feelings, bring your attention back to the sensation of breathing in and breathing out.

This simple yet challenging practice can be transformative. The first thing you may notice is your mind wandering. Like training a puppy, our practice is to notice what is happening within us and around us and then train ourselves to bring our awareness back to the breath. In doing so, we train ourselves to reduce what scientists call emotional reactivity and conceptual elaboration. In other words, we train ourselves to accept what is happening—the good, the bad and everything in between, without the constant commentary, developing greater inner stability and contentment, the building blocks of a more peaceful and more just society.

Ten Ways to Bring Mindfulness in Daily Life

Mindfulness is a portable tool that can be used anyplace and anytime. Here are ten ways to bring mindfulness into the work day:

1. Take a few minutes in the morning to be quiet.
2. Instead of turning on the car radio or iPod to listen, allow for silence.
3. Before you leave home, take a few moments to pay attention to your breathing.

© MINDFUL COMMUNICATION SKILLS
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4. While driving/commuting, become aware of your body tension, *e.g.*, hands wrapped tightly around the steering wheel. Consciously dissolve the tension, and notice if you feel better.
 5. While sitting at your desk, keyboard, consciously relax and let go of tension in your neck, shoulders and arms. Notice how you feel.
 6. At lunch, try eating without reading or working at the computer. Just eat. Eat slower than you do normally. Notice how you feel.
 7. Pay attention during the short walk from your office to your car or public transportation. Notice whether you feel rushed. Notice whether you are focused on walking or whether you are thinking of something else, *e.g.*, what you will do when you return home.
 8. Slow down.
 9. Notice the cycles of the day from early morning through late afternoon.
 10. Pause throughout the day to feel your breath.
- 1 Valerie Brown, a former lawyer-lobbyist for a large legal services agency, is now a leadership coach and leadership educator, a popular retreat leader trained at the national Center for Transformational Leadership, Center for Courage & Renewal, and the Center for Mindfulness in Medicine, Healthcare & Society. She is the author of *The Road that Teaches: Lessons in Transformation through Travel* (QuakerBridge Media, 2012) on mindfulness transformation and travel, *Living from the Center: Mindfulness Meditation and Centering for Friends*, *The Mindful Quaker*, and *Heartfulness: Bringing Heart, Mind and Spirit on Retreat and Beyond* published by Pendle Hill. Her work and writing point toward powerful transformation through mindful awareness, and her passion is for creating greater trust among people. She is a certified Kundalini yoga teacher and was ordained by Thich Nhat Hanh, a Vietnamese Buddhist monk. She is a member of the Religious Society of Friends. Valerie may be reached at www.leadsmartcoaching.com.

© MILLENNIAL ATTORNEYS AND THE TECHNOLOGY SHIFT
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- tance Foundation of Metropolitan Chicago. Kimberly may be reached at Jordan.723@osu.edu.
- 2 “The legal profession is rife with commentary exploring how to be more marketable in the law profession of the future given the rapid changes fostered by technological advances, disruptive concepts and strategies, the need for sustainability, and outsourcing.” Susan Swaim Daicoff, *Expanding the Lawyer’s Toolkit of Skills and Competencies: Synthesizing Leadership, Professionalism, Emotional Intelligence, Conflict Resolution, and Comprehensive Law*, 52 Santa Clara L. Rev. 795, 800 (2012).
 - 3 The 2010–2011 Survey of Applied Legal Education, Center for the Study of Applied Legal Education, available at <http://www.csale.org/files/CSALE.Report.on.2010-11.Survey.5.16.12.Revised.pdf>
 - 4 These articles describe the Millennial generation as a technologically savvy, racially and culturally diverse, over-watched generation, who were heavily influenced by parents, relatives, teachers, coaches, babysitters, counselors, chaperones, mini-vans, and curfews. They are described as ambitious, enterprising spirits. Karla Mari McKanders, *Clinical Legal Education at A Generational Crossroads: Shades of Gray*, 17 Clinical L. Rev. 223, 226 (2010) (internal citations omitted).

© THREE COMMON MISTAKES
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The employer should not disclose the nature of any personnel action taken toward this individual to the complainant as that is a private personnel matter.

Internal complaint procedures can be a useful tool to promote harmony in the workplace, but the investigation needs to be conducted correctly in order to promote this goal.

- 1 Karla Grossenbacher is the head of the Labor and Employment practice in the Washington D.C. office of Seyfarth Shaw LLP. She advises on employers on all aspects of employment law and also provides management and employee training.

Balancing Work and Family: A Survey on the Policies and Practices of Legal Aid Employers (PLEASE RESPOND!)



The MIE *Journal* Committee would like to learn more about the policies and practices of legal aid employers that relate to work-life balance.

We are inviting legal aid organizations to volunteer to assist by encouraging their staff members

to complete an online survey. Below are the questions. Will You Volunteer?

Please email MIE Executive Director Patricia Pap at ppap@m-i-e.org to participate. Thank you!

- What is a family-friendly workplace, in your view?
- Does your organization have any policies or services designed specifically to assist employees with balancing work and family?
- Overall, how do the decision-makers in your organization rate the importance of offering support to help employees balance work and family issues?
- In your view, how important is offering support to help employees balance work and family issues?
- What steps does your organization take to promote family friendly programs to employees?
- What if anything does your organization do to encourage management support for family-friendly initiatives?
- What impact do you perceive that child care and other work-life issues have on your organization?
- What supports for balancing work and family does your organization currently provide?
- In what ways does your organization support non-traditional families?
- Which aspects of your job are most tied to your satisfaction?
- What does “having it all” mean to you?
- Who cares about work life balance — women, men, both?
- What impact do money woes have on your work?
- In what ways does your organization support telecommuting by staff ?

© BOOK REVIEW: LEAP OF REASON *Continued from page 22*

individuals and the society and move forward peace, justice, and understanding is not simple and demands logic and data, but much more. Who knows, another ten years in the nonprofit world and Marino may even be using words like “vision,” “inspiration,” “passion” and “compassion” as he discusses achieving nonprofit goals. In the meantime, his book is an interesting and helpful volume.

- 1 *Leap of Reason: Managing to Outcomes in an Era of Scarcity* is available in complimentary print, Kindle, iBook, or pdf formats, as well as by individual chapters, the compendium, ideas into action, culture is key, About the

Book, and Executive Summary. Visit <http://www.vppartners.org/leapofreason/leap-reason-suite-materials>.

- 2 Dave Yoder has worked in Legal Aid since 1975 with programs in Michigan, Indiana and now Tennessee. Currently, he is Executive Director of Legal Aid of East Tennessee. He has been an Executive Director for thirty years. David may be reached at dyoder@laet.org.
- 3 Catherine C. Carr is the Executive Director of Community Legal Services, Inc. (CLS), Philadelphia’s non-LSC funded legal services program. CLS has received national recognition for its high quality and innovative work, including the American Bar Association’s Hodson Award for Public Service. Cathy may be reached at ccarr@clsphila.org.

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Dependent Children Limits so parents entering the workforce could keep family health care; assuring the welfare to work requirement was meaningful; attending college counted as work; working was not to be made up or punitive; making sure that textbooks; school fees; field trips *etc.*, were waived for poor children.

I will conclude with quotations from two of Dennis' colleagues who knew him in PAG and MIE. Victor Geminiani, long time director from Hawaii, said of Dennis, "He was a great character, with a good sense of humor and a passion for making things fair. He also was always able to evolve both his thoughts and his actions to meet head on the current challenges he and we faced. Soon after the private bar requirement was adopted in 1981, I remember him at a Southeast Project Directors meeting vocally questioning its logic (he had a lot of company) and yet he went back home and became a leader in his own community in spreading the new gospel.... and then used the momentum to start a successful private bar campaign. Here's to Dennis and his passion. They don't come any better."

And from Sheldon Roodman, longtime former director of the Legal Assistance Foundation of Metropolitan Chicago, "Dennis was a fighter for what he believed in. And he believed deeply in justice for the poor and the ability of legal services lawyers being able to advocate not only in the courts but also in legislative bodies. He would be so upset with Congress or LSC when they tied the hands of his lawyers and other legal services lawyers throughout the country. Dennis fought for justice on all fronts. We all were privileged to have such a fighter on our side."

1 John M. Rosenberg of Prestonsburg is Emeritus Director of Appalachian Research and Defense Fund of Ky., Inc. (Appalred), a legal services program serving low income clients in thirty-seven counties in eastern and south central Kentucky. He served as its Director from its founding in 1970 until his retirement in 2002. John may be reached at jandjrose@suddenlink.net.

© WHO NEEDS SLEEP
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with some of life's most important lessons. For this I will be eternally grateful to all my clients.

I mentioned my "struggles" with another working mother recently, and she told me, "one day your kids will understand what you do, and it will help shape who they are and what they believe in... *so who needs sleep?*" Not to discredit the need for self-care, this really resonated with me and gave me a new outlook on the interweaving of our work and parenting. It made me think about how I will teach my kids about what I do and how to interpret the world. I often bring Terin to meetings and legal clinics with me, mostly due to necessity, but also to expose her to my work. Although she is too young to comprehend now, I am grateful that eventually teaching her and Tegyu about what I do will help shape who they are and what they believe about our society and the world. In the bigger picture, a little sleep here and there seems like a small sacrifice!

1 Joann H. Lee is the directing attorney of the Asian and Pacific Islander (API) Community Outreach Unit of the Legal Aid Foundation of Los Angeles (LAFLA), where she provides direct legal services to the growing indigent API immigrant population in the Los Angeles area. Joann specializes in the areas of family and immigration law, with a focus on representing domestic violence, sexual assault, and human trafficking survivors before the courts and administrative bodies. Joann directs outreach efforts, media work, and projects designed to provide monolingual and limited-English proficient APIs improved access to legal services. She is also actively involved in national and local efforts to provide all individuals linguistic access to legal and social services. Joann received her J.D. from George Washington University Law School, and a B.S. from Northwestern University. She currently serves on the boards of the Korean American Bar Association of Southern California and the Korean Resource Center and serves on the honorary board of the Center for the Pacific-Asian Family, a local domestic violence/sexual assault shelter serving API women and children. Joann maybe reached at jlee@lafla.org.

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personal change and transformation through just and mindful communication and workplace interaction. She is the former Executive Director of Philadelphia VIP (Volunteers for the Indigent Program), the hub of pro bono legal services in Philadelphia. Sharon also taught in the Sociology Department at Chestnut Hill College, Philadelphia, PA concentrating on issues of poverty and inequality, and has served as the consultant for the American Bar Association Standing Committee on Pro Bono and Public Service National Celebration of Pro Bono. She provides coaching services and facilitates workshops and training, staff retreats, and “difficult” conversations, for lawyers, law students, mediators, judges, social services workers, teachers and healthcare professionals whose primary work is with vulnerable individuals and groups. Sharon may be reached at sbrowning@justlistening.net, www.justlistening.net.

- 2 Richard Boyatzis and Annie McKee, *Resonant Leadership*. Harvard Business School Press, Boston, MA 2005, 55
- 3 Margaret J. Wheatley, *Leadership and the New Science: Discovering Order In A Chaotic World*. Berrett-Koehler Publishers, San Francisco, CA 2006, 87
- 4 Boyatzis and McKee, 8
- 5 Boyatzis and McKee, 152

☉ TWO PERSPECTIVES ON LIFE STYLES IN LEGAL AID
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The key is in the proper application. That’s the hard part and it is up to each of us as managers. Enjoy the challenges.

- 1 Victor Geminiani began his legal services career as a Vista Volunteer lawyer with the Atlanta Legal Aid Society. He has served as Executive Director of the Legal Services of Western Massachusetts, the Legal Services of Northern California, the Legal Aid Society of Hawaii, the Legal Aid Foundation of Los Angeles and the Hawaii Appleseed Center for Law and Economic Justice. He has also worked with the Legal Services Corporation (LSC) as Associate Director of Support and Finances responsible for LSC funding policy and as the South East Regional Director overseeing the 75 legal services programs located in the ten Southern states.

Victor has served on a variety of volunteer boards and committees including the Executive Committee of the National Legal Aid and Defenders Association, as founding board member and President of the Management Information Exchange and as a board member of the Litigation Section of the American Bar Association (ABA), as well as the ABA’s Standing Committee on the Delivery of Legal Services and its Standing Committee on Pro Bono and Public Service. He has been a recipient of the Litigation Section’s John Minor Wisdom Award. Victor may be reached at victor@hiappleseed.org.

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THE BACK PAGE



Notes from the Perch

By Dave Pantos, Executive Director, Legal Aid of Nebraska

My office building sits in the shadow of the iconic (for Omaha) Woodmen Tower building.

Every year since 1988, a pair of Peregrine Falcons has nested on the top of the Woodmen Tower and successfully produced fledgling birds of prey.

That's exciting for me, an avid bird-o-phile, as I sometimes get to watch from the safety of my swivel-chair the parent raptors capture and subdue pigeons in mid-flight.

I will tell colleagues, "Hey, did you know that Woodmen Tower has Peregrine Falcons nesting right on top of it?"

The response is usually, "Wow, I had no idea we had Peregrine Falcons in the middle of downtown Omaha!"

While I have no way of knowing whether I am simply being humored or gently indulged with that response, it is in fact the same response I often get when I describe to new contacts Legal Aid and our mission.

"Wow, I had no idea we had free civil legal services for poor people in the middle of downtown Omaha!"

And, just as the Woodmen Tower folks actually promote their wild birds with the "Live FalconCam" (<http://falcons.woodmen.org/>), it is up to Legal Aid programs to strategically figure out ways to effectively promote their own presence and services in the community.

Sure, you may be thinking, we have more than enough people clamoring for our services; we have to turn people away! Why do we need to promote our presence?

The more people know about Legal Aid, our services, and our essential role in the continuum of the community's response to poverty, the more likely we are able to preserve our existence and thrive despite funding challenges and other external threats.

Program directors and senior staff need to *always* be working to share the mission of their program! Be ready with a key anecdote about a client or a case, or data about return on investment.

More broadly, programs should have an overall plan to promote their good work. While there is no grand unified theory encompassing social media, traditional media, new media and Legal Aid, you need to figure out what your program's capacity is for public relations and get the word out within that capacity!

Part of that strategy should include what the impact on the community would be if Legal Aid was no longer there. The impact of the unmet legal needs. The strain on families, the elderly, veterans, victims of domestic abuse, and others.

So, just like one might impress a listener by relating that *Falco peregrinus anatum* is capable of achieving a diving speed of 200 miles per hour (!), Legal Aid attorneys should also be able to quickly and effectively state that without legal assistance, thousands of poor people would have lost their homes to foreclosure and become dependent on government assistance and even be homeless.

The peregrine falcon was on the endangered species list from 1975 through 1999. They were nearly extinct in North America! This is because before the 1960s, no one really knew that DDT was killing birds of prey. Then, by grace of God they got Rachel Carson and *Silent Spring*. We learned what was happening and what might happen through inaction.

Now birds and other beasts get lots of great PR, whether it's small-scale like the Woodmen Falcon-Cam, or larger-scale through major environmental groups and the Fish and Wildlife Service.

Let's not wait until Legal Aid is on the endangered species list. Let's get out there! Don't be afraid to tell our communities what we do, why we matter, and how we make equal justice a reality.

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