



## RURAL JUSTICE – THE END OF THE ROPE?

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Is the title overstated? Considering the continued demise of local legal services offices in rural areas and more specifically, in the broad swath of communities from the Northern Plains to the Red Dirt country of the South, the exaggeration is not great.

These offices are an endangered species; their loss will have serious impact on local communities and the legal services community in general. An “on the ground” presence is a cornerstone of any comprehensive delivery methodology. Without it, the loss is much more than the individual cases which no longer have representation. The loss is the capacity for systemic advocacy, community support and capacity for future growth.

While many important strides have been made over the past few years in improving overall access to justice, the threat to local community advocacy and relevancy is entering a new era. If the legal services community fails to respond to these challenges, leading to the closure of rural offices, this cornerstone of the delivery system will be lost. Funding is at the core of the threat: funding lost, funding diverted to other priorities, funding that has been more or less maximized and funding not realized.

Along with solutions to increase the effectiveness and efficiency of advocacy, there are opportunities to increase funding for rural advocacy in such a way as to maintain a local presence. These opportunities are not without demands: a willingness to adjust to new realities, increased collaboration, increased and more sophisticated management and fiscal administration, and a larger view of service delivery. Without a meaningful rural presence, however, the resulting impact goes far beyond the immediate and sacrifices future opportunities.

### **The Challenge: The Poor get Poorer**

While almost all states have substantial rural areas, focus for a moment on the poorest of the poor: the notorious “L.” The “L” consists of those states from Montana and North Dakota heading south to Texas and then marching through the South to the Atlantic. While there are some exceptions, this region has always been at the bottom of per capita funding of legal services and the greatest reliance on Legal Services Corporation (LSC) funding. These areas are primarily rural and constitute one of the hardest-to-solve problems in the delivery of legal, social and community services. Not only is legal services funding low but these areas are among the poorest in the country.

While the “L” has always been at the bottom of funding levels, the future is becoming drastically worse. The 2000 census adjustment means that all of these states will experience at least 0–14.9% loss of LSC funds, with some suffering in excess of 15%. When one considers that these states are the most dependent on LSC funding, the impact on the delivery system is clear. Often there are only nominal providers of “restricted” legal representation. Despite the Supreme Court’s IOLTA decision, the threat of the diminution of IOLTA remains real.

### **Justice Packs Its Bags for the Big City**

Once this funding crisis is fully apparent, the typical first response is the reduction of staff and closure of offices, an oft repeated scenario in legal services history. Needless to say, rural areas will be more heavily impacted. Why? Because urban areas, with greater resources, are better able to adjust. While state planning efforts may attempt to shift resources from urban to rural areas, the overall and lasting effectiveness of this transfer remains to be seen. Urban funders will insist that money can only be spent in urban geographic service areas. Donor communities demand it in grant restric-

tions. While not an unreasonable concept, the view is not exactly helpful to the rural areas.

The huge investment that legal services programs have made in technology, hot lines, etc. actually exacerbate the problem. While important additions to the delivery of legal services, this technology contributes to the closing of rural offices because of investment and continuing operating costs. These additions do very little to increase or maintain a local community presence.

Ultimately, the changes mean fewer lawyers representing client interests in court and the community. While legal services programs were never able to meet all of the need, at least they kept the system some what “honest.” Landlords, school districts, nursing homes, abusive spouses never knew when they would have to face a lawyer on the other side. Local legal services programs impacted the court system, recalcitrant clerks, and presented a voice for *pro bono*, *pro se*, etc.

This presence cannot be maintained except by a local office. While the closure of any neighborhood office drastically affects the local community, the closure of a rural office is especially draconic. The local rural legal service office is the only method of retaining a semblance of opportunity for representation and advocacy. With no law school clinics and fewer lawyers, *pro bono* opportunities are far below that of urban areas. There are no “boutique” law projects.

“Access to Justice” is much more than courtroom advocacy. As state plans have realized, community education, *pro bono*, *pro se*, partnerships and collaborations play an important role. To implement the required linkages to the local community, a local presence is required. Are we serious about Equal Access? As we move forward from aspirations to actuality, the reality is becoming clearer. Every community is underserved. Are we willing to maintain rural presence and its benefits to the entire delivery system? Can we understand the difference between a diminution of services and a total loss? Are we willing to make the appropriate adjustments?

### Options to Enhance Survivability

Despite many challenges, rural legal services programs have some options that can enable them to maintain a physical presence and leverage funds to continue to provide legal advocacy. To do so will require a more expansive view of the role that legal services programs can play and how they can implement the internal change needed to remain viable. It will also require a commitment to combine a series of actions to create the “critical mass” to ensure success. Most importantly,

it will require the ability to accept and embrace change throughout the organization by recognizing the need to maintain a meaningful rural presence.

So what are the options? Forget increased LSC funding, foundations, private bar campaigns and state legislative funding. These sources are important but beyond the scope of this article. Granted, few rural areas can have a very important role in legislative funding and be a key in obtaining and maintaining such funding. Programs must decide if at least a degree of service area constitutes equal access. The traditional *pro forma per capita* funding allocation needs to be adjusted to maintain a rural presence. The impact of program consolidation on rural access should be tracked.

What funding options exist? An important overlooked funding source is non-legislative governmental projects, especially those from the federal government, whether discretionary, entitlement or passthrough. Rural legal services programs have developed projects which compete favorably for funding. Overall, it is common for rural areas to receive more in benefits from the federal government than taxes paid by these poorer states.

Other strategies which need to be considered are: expansive collaborations with other legal services programs and non-legal services programs, beyond traditional geographic and target population borders, innovative expansion of what constitutes advocacy and a seamless funding-driven bifurcation of service delivery to clients.

### An Example: “Grants without Borders” Collaborations

Collaborations of legal services programs to serve targeted populations are an area of increasing interest. Collaborations are the future and, as a community, legal services programs have begun incorporating this concept into program strategies. We must do better. While adopting the concept, legal services programs seem to have adopted it only to traditional LSC designated service areas. Legal services programs need to think about “grants without borders” — the traditional LSC service borders, that is.

Targeted areas can be whole states, multiple states, parts of states, parts of regions or whole regions. The federal government, for example, has specially targeted the rural Appalachian, Delta and Colonias Regions for grants due to their high poverty and lack of economic development with the “Crescent” region pending. Projects can target these areas to provide increased core services funding. Similarly, specific populations such as

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migrants or electronic benefits recipients can be targeted. Projects which serve large geographic areas or populations offer the funder many advantages: fewer projects to administer, more communities served and greater grant consistency. Of course, the grantees must assume greater administrative responsibilities, must work together collaboratively and overcome other challenges.

Increased funding obviously offers other benefits. The partnerships develop increased coordination beyond the specific grant purposes. For example, a fair housing project in Mississippi will create an active task force to address all housing issues because many "routine" housing issues relate to fair housing. Joint projects help build capacity which did not exist prior to the partnership. Again, as an example, the fair housing sub-grantee legal services programs will develop fair housing capacity to enable additional applications for funding for local fair housing advocacy from local communities.

Success is predicated on the ability to work cooperatively and to be able to manage and administer the additional complexities added to existing systems. The

good news is that many legal services programs have the potential to attempt these new more complex delivery models. Programs have the legal, management, and fiscal capacities and the working relationships to succeed. Staff can make the change to new delivery models and the accompanying new complexities. Change is not always easy; the alternatives are bleak.

### So What Will It Be?

A number of legal services programs are subject to a substantial loss of revenue in the immediate future. This loss can inevitably lead to the closure of offices in the already underserved rural communities or decisions can be made to alleviate some of the loss. Without the presence of advocates in these communities, the impact will be severe. While other delivery mechanisms can offset this impact to some degree, the need for local advocates, who can consistently represent clients in local forums, remains. The impact will go beyond degree, will be systemic and will have a negative impact on the entire delivery system.

Rural communities must be included in the legal services delivery system. When included, these communities consistently support our work. While LSC and state legislative funding is the lynchpin of the delivery system, legal services programs must also assess the potential of non-legislative governmental funding. These non-traditional sources offer the opportunity to maintain rural offices with all of the resulting benefits. This strategy must be part of a localized planning to ensure the best chance of success. It requires hard work, change and risk, but the potential rewards are worthwhile. Legal services programs have the ability, skill and knowledge to make it succeed. To do less is a disservice to our clients and the communities in which we reside.

## MIE Announcement

The Nominating Committee of the MIE Board of Directors has recommended that Jan May, Bruce Iwasaki, Dennis Bricking, Jacqui Bowman and Rita McLennon be reappointed to the MIE Board of Directors for three year terms ending in 2006. The Nominating Committee also recommends that Eric Mittelstadt, Director of Personnel, Utah Legal Services, be appointed to a newly created seat on the MIE Board of Directors, for a term that expires in 2006. We welcome comments and additional nominations from all subscribers.

If you would like to participate in the design and delivery of MIE's training events; in the planning, writing and editing of the MIE Journal; or in any of our supportive activities to legal services executive directors, middle managers, fundraisers and administrators, please contact MIE Executive Director Patricia Pap at 617-556-0288 or ppap@m-i-e.org. We need your talents and energy! The strength of MIE comes from the many legal services program managers who are our subscribers and volunteers.