

TRAINING INFRASTRUCTURE FOR THE FUTURE OF EQUAL JUSTICE
Project for the Future of Equal Justice

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I. Introduction

The goal of the Project for the Future of Equal Justice (PFEJ) Training Resources and Information Network (TRAIN) is to develop a training infrastructure that will help to ensure that advocates at all levels of experience obtain the skills and substantive knowledge to provide effective, high-quality services to clients, and to nurture a new generation of leadership for equal justice.

We believe that to achieve this goal it will be necessary to encourage a shared vision of the importance of improving substantive knowledge and practice skills at every level of the legal services system. The shared vision should be a commitment to life-long learning that has, as its goal, the development of skilled and effective advocates who are able to provide clients the most effective representation possible and to fulfill the historic mission of legal services work.

The purpose of this paper is to provide a basis for a series of conversations about how to address the ongoing learning and training needs of the civil advocacy community. The series of conversations began with the paper itself, which is a collaborative product of Shari Dunn Buron and Gerry Singsen. It continued in late September with a two-day meeting of the TRAIN Advisory Group, made up of individuals drawn from national and state support organizations, training organizations, the private bar, LSC and non-LSC-funded providers, and the IOLTA and continuing legal education communities. The Advisory Group reviewed an earlier version of this paper, compared perspectives, formulated tentative recommendations and developed questions about further research and analysis that needs to be done. Now we are making this revised paper more broadly available in the hope that it will stimulate further thought and planning in the community of advocates. A conversation about training, including the issues raised in the paper, is going on in the Training area of the PFEJ website at <http://www.equaljustice.org>. In December, at the NLADA Conference in San Antonio, Texas, the conversation will continue at a number of sessions focused on training and learning in the community of advocates. Meanwhile, TRAIN has formulated its priorities and workplan for the winter and is already implementing some of the steps outlined in the paper.

The paper has been written as an informational rather than an advocacy document. It presents significant data about the current training infrastructure and develops suggestions for changes, but it is not written as a brief for a particular solution or suggestion. To some degree it presents alternative ideas, which cannot all be right. As the conversation continues, the Project and the TRAIN Advisory Committee will attempt to shift from information to actions, from suggestions to recommendations.

Individuals reading this draft are invited to participate in the discussion of these issues on the Equal Justice Network website (<http://www.equaljustice.org>), or to send their reactions and comments to Shari and Gerry (s.dburon@nlada.org and gerrysings@aol.com).

II. Findings and Possible Recommendations

The paper begins with its findings and recommendations, in part to make it clear that the Project's intention is to identify specific, concrete actions that it can take, or can encourage others to take, that will have a measurable effect on learning in the community of advocates.

A. Basic Findings

Many legal assistance advocates are undertrained and, as a result, they are less effective and produce fewer good outcomes for clients than they should. While the specifics of this situation vary from program to program and state to state, the finding is true almost everywhere. If advocates at every level of experience knew more of the relevant substantive law and had better-honed skills than they now do, they would have more impact on improving client lives. A similar weakness in the knowledge and skills of administrators, support staff, board members and allies in the community of advocates reduces the effectiveness and efficiency of advocacy for clients.

The fundamental causes of this chronic problem in legal assistance are:

- Under-funding at every level of the legal assistance system.
- Managerial and leadership unwillingness to divert dollars from current services in order to pay the cost of advocates learning new substance and skills that will increase productivity in the long-run.
- Failure at each level of the legal assistance system to plan for appropriate learning for advocates and others.
- Inadequate learning infrastructure.

Since overall funding is unlikely to increase dramatically, the plan must address the other three causes.

B. Possibilities: Specific Infrastructure Innovations

The proposals discussed in this section represent some immediate, practical responses to specific problems that arise in the process of creating, communicating, and delivering effective learning about substance and skills to the community of advocates. It should be possible to implement them at manageable cost or on a self-supporting basis. Various organizations and individuals could assume responsibility for others.

1. A Website for Training Information

The Project has established a location within its website, the Equal Justice Network (<http://www.equaljustice.org>), to provide information about TRAIN and the Project's exploration of the training infrastructure. A page of information about the training infrastructure in every state, including links to significant sites within these states, will be in place at this site shortly.

By the end of 1998, PFEJ will have expanded into a significant website-based training resource, adding such tools as a training calendar, a training listserv, an ongoing discussion of training based on this paper, and many useful links to other training material. But that will be only the beginning for the potential value of a fully-developed website on training in the community of advocates.

During 1999, how should the value of the website be increased? How can its effect on client results be enhanced? How can more advocates be brought to the website? How can its information be maintained? Where will new content be found? Should PFEJ seek funding (either grant funding or subscription funding) for someone to maintain and develop the site's content? If so, at what level? (We estimate that it would take one person working 240-480 hours over the course of a year simply to maintain content during the initial period; one person working 720-960 hours for a year to encourage greater growth; one or even two full-time people to build content in a more complex fashion, including evaluating various modules and materials and helping local and state organizations pick and choose. On the latter possibility, see the proposal below for a national entity.)

2. A Training Calendar

The website will include at least a minimal national training calendar this fall. The initial calendar will note scheduled national (and probably regional) events sponsored by anyone. Substantive and skills sessions, for advocates, managers, administrators and people in all other roles, will be welcome. A lot of the information will be submitted by the sponsors, since it will be in their interest to have their listing where it will be seen. PFEJ is considering development of an online template that can be filled in by the sponsor. The template will place the event on the calendar, have a page of additional information available for those who are interested, and include a link to the sponsor's website.

A longer-term vision of the calendar could be much more ambitious. It could include either sub-calendars for each state or links to state training calendars where they exist. Ideally, all of the calendars might be cross-referenced in relevant categories (e.g., substantive areas, skills, management, finance, fundraising, target audience, etc.) so that a browser could find offerings in her own state, nearby and nationally. Building an effective search engine into the

website may even make explicit cross-referencing unnecessary. An alternative (and easier) alternative would be just to list and link to calendars found on other sites, so that a browser can serially peruse as many sites as needed to unearth interesting possibilities.

A strategy will be needed to assure submission of information. One solution might be to engage a person whose job is to search for the information, pulling data from PLI and ALI-ABA websites, from state legal assistance websites and from CLE websites as they develop. Another solution might be reliable designation of Training Responsible Persons (TRPs) within the community of advocates in each state. These TRPs would have the task of regularly submitting updated training information for the state; their success might depend upon their local training organizations wanting the publicity, or they might need to be salaried by a funded entity.

Most discussions of proposals involving the website assume a much higher level of regular use of the internet among legal services providers than is now the case. Development of the training calendar may encourage such use, as will other website improvements and increases in technology within the community. But the time frame for reaching relatively complete internet usage is unknown. Are special strategies needed to make greater internet usage rewarding? Could the training calendar use such strategies (e.g., a \$25 discount for registration through the website)?

Until there is much broader internet usage in legal services, should there be a hard copy version of some or all of the training calendar? If so, how should it be distributed? Sponsor, staffing, publication and distribution costs all would need to be solved.

In the short run (1998 and 1999), the initial national training calendar and the expanded training calendar, including information at the state level, will be posted within the PFEJ website. But what is the longer-term home for the calendar? Among the candidates might be NLADA, CLASP, PFEJ, MIE, or a Training Company or a Training Planning Company (see below). Some of these organizations would have to raise dues or cut back other efforts to build the training calendar into their ongoing activities. Others might use the calendar as a marketing device.

Will IOLTA programs be developing their own website? Would this be a logical site for this information? Might PLI, ALI-ABA or the ABA have sufficient interest in a training calendar, and sufficient content for it, to consider providing the location? Do commercial interest conflicts make PLI and ALI-ABA unlikely or inappropriate? Would any entity within the ABA be willing to take this on? (ABA candidates might include a committee within either the Legal Services Division or the Litigation Section, or even Bar Services or Continuing Legal Education.)

3. A Training Listserv

In the past, finding a training package, teaching material, trainers and trainees has been a job for a program, state, regional or national training coordinator or other manager. Staff members, to say nothing of pro bono members of the community of advocates, have often been ignorant of training information because no one saw to it that the information reached them.

Perhaps these functions could be performed collectively through a training listserv. Particularly monitored by TRPs, but available to anyone, the listserv would be a vehicle for asking for help and receiving it. In itself, this could be handled in a relatively passive fashion, without a lot of ongoing oversight. Used in conjunction with a training website calendar and a clearinghouse of training materials, it would be much easier for TRPs to find what they needed and obtain the expert assistance of others.

4. A Clearinghouse of Training Materials

The catalog of training materials maintained by LSC's Regional Training Centers listed hundreds of hard copy and video materials, and needed almost constant updating. Yet it didn't encompass most of the training materials that legal services advocates encountered during in-house training or training by organizations that were "outside" the LSC program system. Active maintenance of a library or clearinghouse of training materials (in much the fashion of the RTCs or, for case materials, the National Clearinghouse) represents a very substantial job. Without grant funding, it is hard to imagine any of the national organizations taking it on. Is grant funding likely?

There are at least two other approaches to the problem. A Training Company or National Training Institute, selling training services to members of the community of advocates, might find it profitable to acquire and maintain at least the best of these training materials and market them within the community (see discussion below). Many of the materials are available without copyright protection. Many need updating. A national entity might find there was a sufficient market to justify the time of its professional staff in maintaining the value of the best materials.

The second alternative is development of a website-based Materials Clearinghouse, where TRPs and others would be able to deposit training materials they had used, along with comments about their use. They could also include brief descriptions of hard copies and videos with the price for which they are available. Participant or observer reviews of the more popular materials could be facilitated. The Clearinghouse could also include links to other sites at which training materials were available. Organizations in the training business might find listing and describing their products produced useful income, and one program's in-house materials might provide a quick solution for the local training needs of many other direct delivery organizations.

Both of these solutions are particularly intertwined with the community's strategies for meeting the changing needs of clients. Substantive developments and changes in federal and state judicial and administrative procedures, together with more thematic material related to the evolving character and content of poverty law, will be regular topics in learning events at every level in the system. Materials on these issues already constitute the core documents in unit and all-staff meetings within organizations, in statewide conferences and task forces, at national events sponsored by NLADA, national support centers, AARP, the Center for Social Gerontology, the Center for Budget and Policy Priorities, HUD or others.. At the same time, advocates need access to such materials in the normal course of their work. What a TRP uses as a training tool one day may be precisely what an advocate needs the next day to learn about the subject. We should begin thinking about how "research," "learning," and "training" can best be integrated within a website or within the community of advocates.

5. Models of Excellence In In-house Training

The state "basics" pages on the Equal Justice Network website's training page this fall will include a feature highlighting innovative or excellent aspects of each state's current training infrastructure. Such documentation of excellence has a long history as an effective learning tool. For example, the LCE/MIE's Innovations presentations during each NLADA Conference for more than a decade have been among the most popular offerings at the conferences. Making information available about model systems, or at least about innovations (not all will be models), will make it feasible for organizations to find and adapt training tools to their own needs, rather than having to start from scratch. It might also play a part in developing a change in the culture.

A website, if it is routinely used by a very wide variety of community members, is an ideal method for making this material available. Materials that can be downloaded and modified through text-editing will be particularly helpful, and more and more easily available. At first it should be enough simply to offer a place for posting descriptions and attachments. Soon, however, there would need to be some method for highlighting new additions, indexing the best offerings and culling outdated and less useful materials. The National Clearinghouse, and the RTCs with regard to training materials, have performed this role in the past. As with other website possibilities, is it sufficient to rely on free will offerings, or is a more aggressive approach needed, including staffing (volunteer or paid)? Is it acceptable to include everything, or should there be some form of testing of the materials?

More traditional methodologies for publicizing models of excellence are also feasible. Newsletters could feature these innovations, the National Clearinghouse could run a monthly article on training experiments, Jan May could modify his column in the LCE newsletter, and a session at the annual NLADA conference could focus on training materials and innovations.

If a Training Company, Training Planning Company, or National Training Institute come into existence, they will certainly want to stockpile information about innovations, and they may find marketing advantage in brochures or website information about state initiatives.

6. Best Practices

Lists and descriptions of best practices, including examples from individual programs, could be shared in the same ways as the models of excellence discussed above. Essays and articles identifying best practices would expand on norms and standards by providing descriptions of what appear to be ideal models for preparing people to do excellent work. "Best practices" might provide a theme for choosing and presenting specific innovations as well as reinforcing the value of tried-and-true approaches. The concept might also become an integrating idea in the "norms" campaign discussed below, which would attempt to ensure that advocates had many opportunities to learn these practices.

7. Self-study Courses

Traditionally, much learning takes place through self-study (think Abe Lincoln by firelight). PLI and ALI-ABA sell the materials they prepare for training events as products useful for those who cannot attend the seminars, and also market video tapes of the sessions. Increasingly, the internet is making possible self-study through downloading materials, either for independent study or as part of an ongoing, interactive course. The community of advocates may find that self-study courses provide a useful vehicle for learning.

For example, a series of guided study courses could be placed on an appropriate website for use by legal services managers who need to learn basic technical information, both new managers and more experienced people who want a refresher course. Because a major task for these managers is to read primary documents, the content of these sites could be put together easily. The course would provide guidance on where to start and what pace to keep up (an hour a day?), as well as some tools for keeping track of the materials. A search engine could be incorporated.

An introductory course on the LSC regulations would be an obvious choice, with guidance on where to start, what pace to keep up and some tools for keeping track of the material (e.g., the CLASP compliance outline). Each regulation could begin with a "guide" and suggestions for relevant keywords that could be searched (e.g., "outside practice," "derivative income" or "administrative advocacy"). A more advanced course could cover policies, procedures and record-keeping, and include LSC's Program Letters and Guidance. As time allowed, CLASP could produce and load updated versions of their expert analysis of the most critical regulations. PAG/NLADA members could get access to these restricted sites with passwords and then expand their learning by searching the relevant commentaries.

Self-study on the basic financial management tools would also be an easy “course” to construct with specialty tracks for staff or for local board members. The Accounting Guide and the Audit Guide, together with OMB circulars nos. A-133 and A-122, could be the basic material. The “course” would consist of a guide to the Guides, during which various special subjects would be introduced and examined (such as “internal control” and “refundable advances”). One session might explain how to research “allowable” expenses in LSC and OMB documents. The regulations would all be accessible as links, with the relevant teaching material from the regulation course available as a “help” screen.

Self-study could be a viable method for learning about many other topics. However, support for the development and distribution of such courses raises the usual questions about finance. A funded project to create such courses might be possible. Technical assistance organizations might allocate some of their state-funded time to developing such courses if their grantor IOLTA programs, state justice coalitions, or boards of directors prioritized such material. To the degree that this happened, distribution through websites to people outside as well as within their state might involve little marginal cost. Charging for such courses might produce enough income (at least for popular topics prepared by experts) to support the development costs at the technical assistance organizations or, at the very least, the ability to generate some income might motivate such organizations to emulate PLI and to market training event materials as self-study courses.

8. Specific New Trainings

A variety of one-shot “learning” and “new generation” events might become established parts of the national learning infrastructure. All could have fees attached for participation, but might need start-up subsidy or risk-taking. These include:

- “New Generation” training for new attorneys (see discussion below)
- Experienced staff lawyer training
- Technical skills for legal services administration
- ABA Litigation Section dues check off for support of lawyering skills trainings
- Federal litigation skills training
- Training of Trainers (NLADA is currently sponsoring a ToT for defender trainers)
- Substantive Task Force Management and Development Skills Training

9. Obtaining Better Information About the Community of Advocates and its Training Needs

Data on who makes up the community of advocates is necessary to define the learning population served by the Project for the Future of Equal Justice. LSC has data on the number

of people working in its grantee organizations, by experience, job title and location, including workers funded by non-LSC sources. But LSC has no information on the many organizations that do not receive LSC grants.¹ Indeed, PFEJ's initial survey of state information reveals that most states lack this information. SPAN tried to include data on this topic in its Updates, but gave it up in July 1998 because the data was so spotty. Development of this data should be a funded component of an ongoing plan, whether within SPAN, PFEJ, NLADA, or elsewhere.

This task might be accomplished through an online "directory" of legal assistance organizations, containing addresses, telephone, fax and email addresses, and including fields for all the staffing and operational data as well. This data base might be updated by online users of the system, or by a staff member of a national organization regularly obtaining updated information. Perhaps data updating on a regular basis could be the "password" for an organization's access to the data or to a website's other resources. A software utility could keep track of data getting stale and a tickler system could initiate requests for updates.

Funders might be willing to cover the cost of obtaining their grantees' information, and a uniform data submission form could be marketed and used by funders who have an interest in understanding the entire community of advocates in their areas. (Data of this kind might interest LSC, IOLTA, AoA, and the United Way.) If these funders required participation by their grantees in the national database, and used the database to figure out what was in their areas and how their areas compared with others, then all would benefit. No firm cost estimate has been developed for this function, but it wouldn't be very expensive for individual funders if the cost were spread among IOLTA, LSC, AoA and UW.

C. Possibilities: Changing the Culture to Increase Knowledge and Skill of Local Advocates

The suggestions in this section involve major systematic changes in the way that the community of advocates approaches training and learning and the ways that training and learning are planned for and provided. These ideas focus on the underlying goal of improving the level of knowledge and skills of the individuals who make up the community of advocates.

¹269 grantees employed about 3,500 attorneys, 1,400 paralegals and 3,200 other staff in 1997 and spent about \$533,000,000. LSC, 1998 Fact Book and Program Information. No one really knows, but a very rough guess might place the rest the community of advocates at more than a thousand other organizations employing at least one full-time lawyer, perhaps 2,000 advocates and total expenditures at \$200,000,000 or more.

1. Establishing New Norms for Lifelong Learning, and Personal, Professional and Organizational Growth and Mastery

Leadership throughout the community should establish new norms for commitment of resources to learning. A standard for knowledge and skill development and maintenance should be developed, encouraged and adopted everywhere. For example, the standard might call for six weeks of explicit training and study in an advocate's first year, four weeks in the second and two weeks every year thereafter.

Similarly, a core curriculum should be developed and adopted as a guide to learning across the country, though it should possibly be called something completely different, like "minimum continuing legal education for competence in poverty law practice" or "American Academy of Legal Services Attorneys" or "NLADA Section Certification Program" or "ABA Competency Standards for Lawyers and Paralegals Delivering Civil Legal Services for the Poor."

To move this concept, national legal assistance leaders need to be convinced that learning is at the top of their agenda, and to preach about it regularly. A persuasive initiative that changes minds and alters behavior in local programs will be needed. John Arango, one of the best observers of direct delivery organizations, believes that one of the biggest failings in local legal services leadership is the absence of a commitment to staff growth and development. He notes the commitment of resources to constant retraining in the private sector and suggests that legal services needs no less.

Completing the work on a core curriculum might get started in a year, but probably would involve great levels of detail and several years to put in place. This effort might resemble earlier "standards" projects, with funding at the start to draft the standards and have a committee review and publish them, and then passing the effort along to another entity that perfects them on a volunteer basis (perhaps an NLADA Section Committee or SCLAID). If PLI and ALI-ABA joined in on the technical side, the effort could move more quickly. (Of course, there would be resistance, but it would probably go pretty smoothly.)

The norms should be focused on the goal of improving the quality and quantity of outcomes for clients, and the short-term costs of increased investment in learning justified on the basis that it will lead directly to much larger long-term gains in client outcomes. The costs of learning are, of course, significant, and will include management time to plan for learning, the time of the learners and the teachers, and the costs of acquiring learning materials or participating in learning events.

Once the norms or standards are developed, funding sources should be encouraged to adopt them as grant conditions, and to explicitly assess grantee performance in meeting them. Perhaps grantors will also find attractive periodic special needs grants related to meeting these norms.

2. Establishing New Organizational Norms Calling for Learning Plans for Every Staff Member

Each organization in the community of advocates should have an explicit plan for the annual learning of each of its people working in the community. Both advocates and others should know in advance what they are expected to learn and how they are expected to learn it; all members of the community should be held accountable for actually learning these skills and substantive knowledge. The plan should include mentoring and supervision, participation in ongoing task forces, scheduled program, state, regional and national training conferences and events (including CLE) and self-study undertakings. The plan will include both regular supervisory assessments of skills and knowledge acquired so far and planning for future learning.

The community of advocates at the state (or multi-state, for states with relatively little legal assistance funding in the state) and national level should have explicit plans for learning for all persons within their community (the organization plans will carry out in detail the parameters for learning suggested in the state and national plans). Assessment of grantee performance by grantors should incorporate both the standard for learning and the plans adopted at the national and state level.

3. Promoting the Development of a Demand-Based Training Infrastructure

Consistently, from the OEO processes in the mid-1960s that founded the support infrastructure through the work of the Support Working Group of the Delivery Working Group in 1994, planning efforts in the legal services community have searched out supply-driven solutions to training infrastructure problems. These solutions were based primarily upon grants to entities and systems that made training available, and their success depended upon continued funding from grant sources.² Creating supply is a bureaucratic or governmental approach, and this focus was initially consistent with the dominant role of federal funding in the development of the legal services delivery system.

Today, supply-driven approaches are less appropriate. The federal presence is reduced in stature, authority and share in the national system. Decentralized funding sources give local

²Examples include OEO's National Institute for Education in Law and Poverty (at Northwestern), the National Training Program (at Catholic University), the Office of Program Support (at LSC), Regional Training Centers, and various models for a National Training Curriculum.

advocacy organizations more autonomy than at any time in the last 30 years. Even though the non-funder national leadership infrastructure (NLADA, CLASP, ABA, MIE, PAG, PFEJ, etc.) is better equipped, better funded and better informed than ever before (certainly far better than in the 1980s), its ability to lead, guide, direct or manage the community of advocates remains modest.

Moreover, as a practical matter, the traditional top-down models historically relied upon for training are unlikely to be funded in 1999. At best, training is a competitor in a zero-sum game in the larger world of legal services for the poor. (Note the recent, failed LSC attempts to raise federal grant money for training.) While there may be "marginal" money for training -- because a training idea is the "best" idea in a competition, because a particular foundation may be more interested in training than in direct services -- large resource commitments by foundations seem unlikely, and pursuit of small grants raises significant cost/benefit questions.

Today, training strategies focused on the program level rather than the national level are more likely to be successful. Most money and planning judgments regarding training are made at the program level. Most substantive and skills learning happens within the program, on the job.

The new model for learning in direct-delivery systems should be "demand-driven," as it is for most of the private bar.³ Advocates should seek out and obtain the learning they need to be effective in their work for clients; the needs of administrators, managers, leaders, volunteers and other staff should be articulated as well. Costs of education should be paid out of the funds available for services, as a built-in overhead cost. Funds sufficient to obtain or provide the required learning should be included in the budgets of every advocacy organization.

³ From law school through law practice in private firms, most lawyers must be responsible for their own learning. Three-quarters of practicing private attorneys work in firms of five lawyers or less, where "formal" training is practically unheard of and the culture is an individualistic "sink or swim." Even the largest firms in America only moved to formal training programs in the late 1980s. The rapid growth of mandatory continuing legal education has followed a demand-based, rather than a supply-based, model. CLE is not "funded" by states, state supreme courts or bar associations, but must pay its own way. What has changed is that demand has been stimulated by requiring annual learning. (It is worth noting, however, that the growth of mandatory CLE has been based on increasing concern about low-quality and unethical lawyers, rather than a search for excellence. The theory is that lawyering requires constant learning, and that excellent lawyers have always been lifelong learners. Mandatory CLE, is intended to ensure at least some regular updating of the knowledge and skills of lawyers who would not otherwise seek out new information the way that professional norms dictate that they should.)

Providers of learning materials, conferences and training events should be encouraged to see themselves as competitors in a “market” for learning assistance. Local organizations should assess the costs (and the benefits) of meeting their learning needs by contracting with these providers versus meeting those needs by using the delivery organizations’ own staffs. Current experience suggests that state and multi-state providers will often be more efficient and effective than either hiring a national Training Company or doing training in-house.

This demand-based (or “bottom-up”) model is far more likely to be financially viable than the traditional legal services approach to training. In addition, it takes maximum advantage of the fact that, in a local context, and possibly in a state or even regional context as well, there *is* training and learning available either cheaply or for free (most common examples: United Way and CLE). Finding and using that training is an alternative form of resource generation which everyone should be doing. This is not a zero-sum activity.

A demand-based approach may also deliver more relevant learning, because it starts with the individual advocate and how her needs are met for training, learning and getting the ability to help clients on things she can’t do now. Moreover, locally-based approaches take better account of the fact that the relevant characteristics of each state, and each program, are different -- states differ in the extent and nature of non-LSC funding, the number of programs, traditions of training and quality, and support structure; programs differ in traditions, management philosophies, the presence or absence of capable mentors on staff, and the inclinations of individual staff members.

In the near future, significant effort should be devoted to developing and assessing demand-based strategies that work from the program level up. Among the issues that must be considered are the following:

- Which people, roles and institutions in the local organizations’ cultures will resist a local program basis for training, and how can that resistance be addressed?
- If a shared “purpose” -- a mission for equal justice-- is a premise of a culture-change effort in improving the learning infrastructure, how can the strategy address the absence of commitment to that mission in some direct-delivery organizations. The lack of commitment may be both explicit and implicit. (Implicit resistance might be seen in refusal to commit resources or support policy advocacy and group representation.)
- If grant sources (LSC, IOLTA, AoA and United Way are the four most likely) are important elements in the culture change effort, how can they be enrolled to increase the demand for training within direct-delivery organizations?
- What is the relationship between promoting the development of a demand-based approach to training and LSC’s planning initiative? Would training at the program level be more available, effective or efficient if direct delivery organizations were

larger or if there were fewer of them in the states with the largest poverty populations? No research has been found that correlates learning levels or learning practices with larger program size. Over time, gathering information within the Basics pages about in-house training may demonstrate the presence, or absence, of such a pattern.

- Can training expenditures be justified to local funders through a cost/benefit analysis? Are we able to demonstrate the benefit in outputs or outcomes that correlates to education/ learning?

4. Promoting the Development of Entrepreneurial Approaches to Meeting the Demand

Any campaign to increase knowledge and skills will fail if the actual training and learning tools are not available. While some initial grant funding (or support such as that offered by a recent proposal of an ABA Litigation Section dues check-off to fund litigation training sponsored by the Section) is likely, the old, grant-funded support infrastructure will not be recreated in the foreseeable future, and existing technical assistance and specialized advocacy organizations have generally concluded that they must be paid for their time (and earn a little profit as well). A new organizational effort is needed, based upon entrepreneurial principles.

This effort might be organized around a “Training Company” and a “Training Planning Company” (perhaps a single entity), which would facilitate acquisition of educational materials, planning for learning at each level, and the design and delivery of some new learning tools. Perhaps more than one Training Company or Training Planning Company might compete for this business. These companies might be nonprofit or for-profit arms of existing national organizations or for-profit companies begun with investment capital. Regardless of corporate form, the companies should be self-supporting.

The companies’ clients might include contractors interested in development of particular portions of the overall infrastructure (e.g., NLADA, ABA, OSI). These contractors might make bulk purchases of learning materials, events, infrastructure improvement, or planning on behalf of direct service organizations and those organizations’ employees.

These proposed companies would perform training functions similar to those envisioned for the national entity proposed by the Support Committee of the Delivery Working Group (see Part III), except that they might be pay-as-they-go operations rather than funded by grants.

The following sections discuss ways in which the proposed companies might be developed and organized, and identify alternative approaches.

a. A Training Company

A Training Company (call it "TC" for now) could succeed financially by developing and selling learning products to the relatively small market of staffed legal assistance programs.

Trainers would be drawn from the ranks of experts within the legal assistance community, including direct service providers and law professors. (The experts might be contracted out by their organizations, or might work for the extra income during vacation leave time.) Trainer compensation might be \$600 - \$700 per day, and cost per trainee might be \$200 for the two day training. (These would be "pro bono" rates for professors and law firm partners, but are quite high for legal services experts.)

TC would organize some national training events. Much of the national training might be delivered through satellite-delivered panels of talking heads, with interactive discussion via land lines (at least until something better comes along). (Someone has already figured out how to charge for this and avoid access by those who haven't paid.) (For a national event, 200 customers paying \$100 per site for a program would generate \$20,000, which would cover the costs of the experts and the organizations, including profit.)

At the same time, national training presented at a residential site (a conference hotel) is feasible on a pay-as-you-go basis. All that is required is a decent plan, marketing and a reasonably-sized target audience. The key component is reliance on just a few true national experts as trainers. Use of a substantial number of "talking heads" as trainers, on the other hand, makes the costs of trainers much harder to fit within what legal services programs are currently prepared to pay. As SubLaw has demonstrated, even the costs of travel for a very large number of volunteer trainers can exceed registration fees set at a low level to maximize attendance.

Much of the training would be packaged on demand C getting the right experts into the right format at the right time and place. To make this economically feasible, either a large program (e.g., an organization large enough to want 10 advocates learning motion practice skills over two days) or a state or regional approach (bringing 10-20 advocates together for such learning) would be required. Both PLI and ALI-ABA have already developed a consulting training design system which could be used as a model for this aspect of the business.

Another group of products would be marketed by TC but actually produced by other organizations, such as national and state support centers and even local legal services programs meeting their own training efforts. TC might assist such entities in developing CD-ROMS and market them for use in local programs, sharing risk and profit with the actual training talent. Other products might include specific models for dealing with recurring learning or practice

needs, such as speeches on Medicare for senior center visits or videos on the history of legal assistance in the United States for use in orientation programs for new employees and new board members.

Creating the entity or entities would take a year to 18 months of effort, for design, capitalization, hiring and start-up. Development of the company could be undertaken by the Project or another entity, or it could be left to the market.

b. Training Planning Company

The function of *planning* for training in all the jurisdictions might also support itself. The need is there, and very few states seem to have a comprehensive plan for delivering the most critical kinds of training and help for learning. While the function of delivering training which would require a large staff, many consultants, and a huge budget, an entity dedicated only planning for training would be much smaller.

The core of this model is that each state (or, in the case of states with small poverty populations, each group of states) would use its own resources to implement the comprehensive training plan, including hired substantive, skills and training delivery expertise as needed, plus purchased materials (including downloaded self-study courses, CD-ROMS and satellite courses), plus periodic, targeted participation in national and regional training / networking / mission-setting events. But the planning effort would be facilitated by a small group of full-time training planners who know the full library of training designs, materials and tactics and have a well-organized method of helping a state or regional training committee decide what its training plan should be for the upcoming two-year period.

The planners would have liaison relationships with state planning committees, managed on the web. There would be a cyberspace monthly newsletter composed by the planners, and including notices of new materials and upcoming local, regional and national events. The Training Planning Company (TPC) would combine the functions of the Regional Training Center library of materials, the CORT expertise in regional planning and delivery techniques, the Clearinghouse database on learning materials and the PLI / ALI-ABA Special Training Services consulting company.

With regional consolidations for small states, there would be about 45 planning jurisdictions to work with. During the first 18 months of its existence, the TPC would help each of them put in place two-year training plans covering a wide range of needs. Every year after that the TPC would convene the state/regional planning committee for each jurisdiction, review the successes and failures of the local planning effort since the last meeting, teach the committee about new training issues (drawing on training, substantive and administrative developments), and help the committee devise a plan for the next two years. Note that the plan would include revision of the second year of the prior plan and creation of the new plan's

second year. The TPC would receive reports from the jurisdiction's implementation efforts but would not actually be involved in delivering the local training (thus keeping costs local and lower).

While a lot of work would be done online and on the phone, all 45 jurisdictions would be visited by one of the consultants for a week each year. With a staff of three full-time training consultants (probably lawyers), a database manager and an administrator, personnel costs (including benefits), overhead, and travel would run approximately \$750,000-800,000. Allowing profit at 20 percent of costs, total billings of \$900,000-960,000 would be needed.

Assuming all 45 jurisdictions subscribed, one way to charge for this service would be at a flat cost per jurisdiction per year: \$21,000 (nonprofit would charge \$17,500). This pricing scheme would favor the states with the largest numbers of advocates and be slightly more expensive for jurisdictions with limited funding bases.

Another approach would take a base rate per jurisdiction of about \$10,000, and then charge a per lawyer, per advocate or per employee amount in addition (larger populations call for more complex plans). Assuming for the sake of analysis that there are 5,000 lawyers, 2,000 paralegals and 12,000 total employees in the community of advocates, the cost per lawyer would be \$100, the cost per advocate (lawyer plus paralegal) would be \$70 or the cost per employee would be \$40. Thus, for a jurisdiction with 50 lawyers, or 70 advocates or 120 employees (a jurisdiction with a little more than \$6 million in funding), the cost would be $\$10,000 + \$4,800 = \$14,800$ (if the TPC operated as a nonprofit, generating no reserves, the same jurisdiction would have to pay about \$13,400). This pricing scheme would favor the jurisdictions with the lowest total funding.

Would an entrepreneur loan three top legal services trainers a year's operating capital at eight percent to get this going? Would a foundation fund a nonprofit the same amount with the same goal? Would enough jurisdictions find these prices attractive (equivalent to the cost of about one-sixth of one lawyer in a state support center, but equipped with extraordinarily better knowledge about training and able to create a planning process that now exists almost nowhere)?

c. A National Training Institute

Under this model an overall umbrella group would serve as a planning and coordinating group and a repository of historical legal services training. Organizations such as MIE, NLADA, AARP, and National Support Centers, as well as independent trainers, could come together to coordinate and organize training.

d. Piece-by-Piece Approach

Alternatively, individual pieces of the training pie could be developed on an entrepreneurial basis, i.e. “New Generation” training (discussed immediately below); core curriculum; training standards; a training for trainers program; web based training assistance, including self-study, training listserv.

5. Leadership and The New Generation

One of the most challenging components of improving knowledge and skills is the development of relatively young advocates into the expert advocates, effective managers and inspiring leaders of tomorrow’s community of advocates. Part of TRAIN’s goal is nurturing a new generation of leadership for equal justice.

National efforts in this area date back at least to the Reginald Heber Smith Community Lawyer Fellowship Program of the OEO Legal Services Program. Other noted national initiatives include LSC’s Project Take-Off in 1977-79, the NLADA Leadership Project and Management Project which operated during 1982-1987(?) (funded by LSC’s 1981 grants), and NLADA’s Annual Experienced Managers Conferences from 1986(?) to 1992(?).

One approach to nurturing and developing a diverse and committed cadre of new advocates. might be to develop a “New Generation” training curriculum that would invest new attorneys with a historic understanding of legal services work, as well as providing skills training, substantive training, and career development skills. Every two years, three different sessions for new attorneys could be convened at various conferences such as SubLaw and NLADA Annual. The new attorneys would have their own curriculum, which would follow them to each conference, and would also participate in conference as a whole as well. This model would promote networking, skills development and the transference of institutional knowledge.

Attention should also be focused on efforts to bring new attorneys into legal services work, including developing models for loan repayment assistance programs (LRAP) that legal services programs could adopt, working with organizations such as NAPIL to increase law schools’ commitment the LRAP, and training executive directors and managers on leadership development.

III. The Support Working Group Vision: One Model for the Infrastructure

From the end of the 1980s through 1994, several closely interrelated planning efforts concerning support in general, and training in particular, took place, primarily in the LSC-funded portion of the community of advocates. These efforts identified critical values that should inform efforts to improve learning and training and articulated a vision of a structure to

implement them. While fundamental changes in the civil legal assistance system since that time have made many aspects of that vision impossible to achieve today, other aspects -- and more importantly, the underlying values -- are still relevant.

A. Uniting Support Project

The Uniting Support Project (USP) began in 1989 and continued through 1994, with a final report in 1995.⁴ The group initially focused on efforts to strengthen communication and coordination among support organizations, and eventually considered long-standing problems such as lack of support for some substantive areas, centers whose work was not of sufficient quality, states whose support system left some critical functions unattended, poor distribution of resources among centers and inadequate responsiveness to field demands for assistance.

The USP's work group on "rationalizing and coordinating training" concentrated on two major areas: (1) NLADA's training and (2) working with community groups analyzing and developing recommendations for improving the legal services training delivery system. USP's task force activities had a significant impact on the contents and design of NLADA's training programs. Notable changes in the annual Substantive Law Conference included the addition of sessions on "cross-cutting" issues (such as housing and welfare) and specialized advocacy activities. USP also encouraged national centers to prepare training modules, sponsored or organized new training tracks on key issues, and collaborated with the staff of the Regional Training Centers (RTCs) and the Legal Counsel for the Elderly to provide Training of Trainers (TOT) and other technical assistance.

USP facilitated organization of the National Training Coordinating Council (NTCC), comprised of the directors of the five LSC-funded Regional Training Centers as well as representatives of NOSSU, OLSBUC, NLADA and AARP's Legal Counsel for the Elderly. Among NTCC's accomplishments were development of proposals for a "core curriculum" (see Appendix 2).

USP also facilitated creation of the Substantive Law Training Delivery Working Group (SLTDWG). In 1994-1995, the SLTDWG developed recommendations to the new LSC board and staff for improving substantive law training. The major components of those proposals included:

- Creation of a national capacity for training coordination;
- Development of an integrated, multi-level training delivery plan and a "core"

⁴ USP had substantial funding from the Ford Foundation. John Tull and John Powell were consultants to the USP, and Bristow Hardin and Jeff Brown were staff.

curriculum;

- Ensuring that broad-based linkages existed to connect and coordinate national, regional (multi-state), state and local activities and ensure accountability among these levels:
- A clear, coherent and coordinated division of labor among training providers.

USP attempted to gain widespread input on its proposals by soliciting comments at conferences and other forums. The major themes of the comments included:

- Strong support for a core curriculum, which would be available to all legal services workers. No consensus on the contents of this curriculum.
- Strong support for increasing client training and clients role in the development of training.
- Broad support for allowing states to develop multi-state training collaborations.
- Widespread recognition that the existing system could be improved by some coordinating capacities and functions at the national level but concerns about the responsiveness and accountability of national entities.

The USP developed recommendations for each of its activities. The recommendations related to training were:

- A coordinated planning process among national organizations, states and regions.
- Pilot trainings to test the feasibility of the integrated delivery recommendations developed for the 1994 Uniting Support Conference.
- Evaluating the core curriculum by delivery components in at least one region of the country.
- Establishing a training clearinghouse to maintain and disseminate information about a national training calendar, disseminate training packages of modules, develop methods of publicizing more effective means for delivering training, etc.
- Making sure that all trainers at national events have gone through a TOT.

B. Support Working Group of the Umbrella Delivery Working Group

The Umbrella Delivery Working Group was a joint venture by NLADA, CLASP and PAG begun after Clinton's election in order to prepare for the new LSC and the changing world of legal services delivery. The "Discussion Draft on Support for the Support Working Group December 2-3 Meeting (Second Draft)(October 28, 1994)" may be the best statement of the role of support, the problems associated with it, and the role of training within the support infrastructure.⁵

⁵ The paper was prepared by Bristow Hardin, Alan Houseman, and De Miller, as "drafters and reporters to the process." Page citations to this document are given in the text in

The paper begins by acknowledging that “support at every level has a number of anomalies, apparent weaknesses, controversies and historical irrationalities” and noting that support issues concern not just LSC grantees but the whole legal services community (what the current paper calls the “community of advocates”). It called for a “unified vision of support”:

A vision for support must be preceded by a more comprehensive vision of the Legal Services delivery system as a whole. We need to visualize an *integrated* national delivery system in which all of the major components C direct services through field programs and specialized entities, state support, national support and other providers C are seen as essential complements to each other which must work *together* closely to provide the most effective services for clients. [8]

All Legal Services programs are responsible for providing some of the key “support” that their staff and operations require: supervision, research facilities, support staff, training and the like Because these functions are completely intertwined with other basic field program operations, and are part of their core mission, historically, no special or separate “support” funding has been earmarked or provided for these basic field program activities.

The paper asserts five “broadly held values and precepts around support:”

- 1 Local control of program activity (local decision-making about program work which is firmly rooted in the needs of each low-income community, as distinguished from such choices being made at the national level) should be maintained.
- 2 The national delivery system should be constructed so that support can be provided as effectively and efficiently as possible.
- 3 Consistent with other values, support should be delivered as close as possible to the level at which legal assistance is provided.
- 4 Duplication of effort should be avoided unless it serves an important purpose in a particular situation.
- 5 Support advocacy and other work should be rooted firmly in the most pressing needs of clients. [9-10]

The paper identified the “core functions” of national and state support. One of the seven core functions was:

italics.

Conducting and assisting necessary training (as already noted in other sections), including such activities as conducting necessary training, supporting or assisting training elsewhere in the Legal Services community through assisting local training, maintaining a clearinghouse of training materials and experts, conducting trainings of trainers for local efforts, developing training packages that can be used at other levels of Legal Services (state, local), and developing recommended core curricula for consideration by state and local programs.

Other core functions covered direct advocacy, coordination of advocacy by others, technical assistance, information dissemination to staff, board members and the low-income community, resource development and preserving legal services as an institution. [11-14]

The paper identifies issues that need to be addressed regarding national, state and regional support:

National Support

- National networks of advocates on key substantive issues are generally weak or non-existent, but they could enable the legal services community to address common concerns and enhance national advocacy by directly involving state and local advocates. Managing such networks, however, takes considerable staff time, requires constant written, oral and email communications, and calls for expensive periodic meetings. Effective networks inevitably require a central point or person bearing the responsibility for coordination.
- The national training system is “ad hoc and haphazard and lacks overall coordination.” Some national organizations train on a state, regional or national level, and coordinate their training with others, and some don’t. No nationally developed standard training packages or materials on substantive issues have been circulated to programs and the core curriculum has not been fully developed.
- Recommendations to address these problems include: coordination of planning and delivery of training on key national issues and among states and regions (e.g., coordination of joint training work plans among national, regional and state entities); development of new training modules, materials, and training technologies; maintenance of a library and clearinghouse of training materials; and development and sponsorship of “training of trainers” packages and events.[21-26]
- Is a national coordinating and training development entity needed to ensure effective coordination and development?[36]
- There is no formal mechanism or institutional capacity at the national level to provide

brief consultations or in-depth assistance on management, administrative or organizational issues. No institution has responsibility to convene meetings, task forces or other forums, provide training, assist in recruitment and retention, provide administrative coordination or ensure effective use of technology. NLADA and PAG efforts (e.g., NLADA Conference sessions, the Management Project and PALS), MIE programs and the work of ad hoc consultants are noted.

- There are significant gaps in the dissemination of information on substantive poverty law issues.
- Should a national “coordinating council” be formed to assess needs, provide coordination among national entities and use a flexible pot of funds to address major crises and new and emerging issues?
- Should an “independent entity” be formed to undertake needs assessments, make funding recommendations to LSC, provide technical assistance and training on management and organizational issues, coordinate the delivery of substantive training, and coordinate the delivery of training overall on the national, regional and state level?
- Should an even larger independent entity be formed to do all of the functions missing at the national level, including those proposed for the more limited coordinating council and independent entities mentioned above, particularly advocacy on unmet national issues. On this topic, the paper notes that a new entity would compete with existing national organizations for funds and raises difficult issues of “accountability” to the legal services community. Nevertheless, the paper concludes that the absence of such a national presence since LSC disbanded its Office of Program Support and its Research Institute in 1981 has had “adverse consequences.” The paper includes an analysis related to governance, priorities and operations of such an entity within an LSC-funding context. [32-35]

State Support

The paper begins by citing LSC’s 1978 Support Study:

“The Corporation will not mandate that the functions of support, coordination and state level representation be done in a particular way in each state Whether every one of these activities should be undertaken within each state and by what type of program or program unit are issues which should be resolved initially by the program staff and clients in each state. Which of the functions should be provided and by whom they will be delivered will depend upon the historical developments within each state, the types and sizes of programs and their relationships to each other and the differences in the community they serve. There is no one arrangement of these functions that is best for all states; the Corporation does not believe that state support centers should necessarily

be established where none exist today.”

The paper notes that, sixteen years later, there were still “major differences among states which have significant impact upon how effectively state support [operations] and the programs within the states are carrying out the critical state support functions. . . ”:

- Critical core state support functions are in fact not being carried out for one or more of several reasons: (a) there is not enough state support funding in the state to carry them out, other field program funding is not applied to this purpose, and the [LSC] grantees do not have enough non-LSC funding to close the gap; (b) there is reluctance or unwillingness on the part of the state support grantee to become engaged in one or more of the functions; (c) there is opposition on the part of field programs or others in the state to the grantee or others carrying on one or more of the functions.
- Some states with statewide, virtually statewide, or very large programs which receive state support funding do not treat that funding as being for a distinct support purpose or clearly delineate their “state support” functions.
- In general, there is wide variation in funding, function, and structure of state support grantees.

The paper reports that the Support Working Group “has evidenced no interest in fundamental changes in the basic approach to state support. The concept of a multipurpose, generic state support grantee within each state still seems very attractive from the perspectives of efficiency, effectiveness, accountability, and flexibility.” [38-39]

Regional Support

In its discussion of the Regional Training Centers and the future of regional training, the paper raised a number of issues that may be relevant to current planning efforts:

- To what extent should the learning infrastructure be a regional function? Most substantive training has coordinated within local organizations, or by state or national support entities. Substantive issues are usually based in state or federal law; regional legal issues were relatively rare. It isn’t clear whether regional logistics, coordination and training of trainers would be more efficient than nationally organized events delivered regionally. Regional task forces, especially on benefits and health, had been useful in the Southeast region, but not elsewhere; either national leadership or coordinated multistate coalitions might be as efficient. Regional meetings with a focus on management, administrative and organizational assistance have been very popular in the Southeast and occasionally seen elsewhere. Regional technical assistance and technology assistance was not a common feature of the RTCs, but did happen; decisions about placement of such functions depend on a fuller understanding of local

needs and an analysis of whether national assistance isn't more efficient.

- Should the primary training roles of the RTCs (assisting local training efforts, maintaining a clearinghouse of training materials and experts, conducting trainings of trainers, and developing training packages for state and local use) be maintained at a regional or a national level? The paper argues that these functions “could be housed at the national level without any major difficulties of access by state or local programs and probably at less cost. There does not appear any inherent reason why these activities would best be carried out at the regional level. A national entity charged with these responsibilities could be held accountable and responsible”

General points

The paper makes a number of other points that have particular relevance to our concerns today:

- It adopts a planning criteria put forth by both the RTCs and the USP: “Training delivery should also be viewed from a holistic approach - there should be an interrelated system of advocacy, coordination and communication, training, technical assistance and other support; training complements a broader strategy to foster excellence in advocacy and program improvement.”
- In a footnote, the paper notes: “One area in which there is clear disagreement is the notion coming from the training community that training be given much higher priority among support functions. In addition to increased earmarked funds for training, various training actors have proposed that there be a specific LSC policy or mandate to emphasize training as an integral strategy for meeting client needs. The RTCs have specifically proposed training “targets” for all advocates and managers. Others have suggested that each program should be required to devote a specified amount of its budget to training activities. Presumably, state and national support could also be required to give priority to its training function and carry on a certain level of training activities. Another related proposal of the RTCs is that all legal services conferences and meetings of task forces and other issue-oriented groups involve persons with training expertise. Many of these recommendations directly conflict with the long-standing policy within the legal services community that programs, including support programs, set their own priorities for allocation of resources without national directives. The only national directives today are the PAI requirement and the restrictions on case types and advocacy imposed by Congress. It is not likely that our community would support another national mandate.” [43-53]
- The paper identifies the following accountability mechanisms for support programs: support program boards of directors made up of legal specialists or members of community-based organizations working on the issues of concern to the support

organization; internal supervision and staff accountability assessments of the effectiveness of other accountability mechanisms; advisory boards or committees comprised of field staff and clients working on the support program's issues; interactive task forces of field specialists and clients; systematic communication with field program staff and clients on both substantive and organizational matters; involvement of the whole community of advocates in planning, evaluation and advocacy activities; regular priority-setting, planning and evaluation. [59-65]

C. Training Working Groups: Management Training and Substantive Training

The Management Training Working Group and the Substantive Law Working Group were formed under NLADA leadership in late 1992 and early 1993. These groups focused on program needs and the delivery system generally, and were folded into the Support Working Group of the Umbrella Delivery Working Group (below) during 1994.⁶ In February 1994 each group issued draft proposals, which were discussed in meetings during the spring.

One major recommendation of the MTWG is a Leadership Institute to guide, oversee, assess and innovate management training. The funding mechanism is unclear.

D. Fighting the Last War, or the Next One?

Certainly, the PFEJ discussions of the learning infrastructure needs of the community of advocates, and how to meet them, must once again confront many of the issues set forth in the Support Working Group Discussion Paper (compounded by knotty problems of funding now that LSC's \$25 million in support funding is gone). Many of the assumptions behind the planning efforts of late 1994 have been reversed by Congress. How much of that vision is still valid?

The SLTWG perspective was quite national in orientation -- coordination, management, development of materials, and even significant amounts of trainer participation and delivery. In this regard its approach was very different from that of the 1979-80 analysis of the Support

⁶ These two groups were convened by Martha Bergmark (then NLADA Civil Director). Bristow Hardin facilitated the substantive group and Jeff Brown the management group.

Planning Process (arising out of Next Steps for Legal Services), which concluded that national training and training development was more expensive than a state-based training system with regional coordination and material development. LSC followed that analysis (and financial pressure) when it closed OPS in 1981.

The SLTWG was working at the end of 12 years of Republican presidencies, and believed a national perspective might draw either direct or indirect national funding support from LSC. Indeed, the new LSC Board proposed to the 1994 Congress, in its revised 1995 Budget Request, that \$1.7 million be appropriated to LSC for a major training and technology initiative.

The SLTWG was developing solutions for training problems that bedeviled the delivery system during the Reagan-Bush years. Those years were characterized by the frustrations of a substantive as well as political “government-in-exile” which lacked the funding or authority to impose any particular order on the work of programs or to invest heavily in providing rewards for preferred program behavior. Solutions based on coordination and national leadership with LSC support seemed very sensible in early 1994.

By the summer of 1995, however, events had taken a far different turn. In some ways, the planning in 1981-82 has more in common with what we are now doing than the planning of 1993-94 does. Once again:

- Essential components of poverty law work are being transformed through devolution.
- Program planning is being done in the wake of significant staff reductions in many programs.
- An increased emphasis is being placed on diversified funding for delivery and a broader understanding of the community of advocacy (then the private bar, now the extended world of advocacy through non-LSC providers and social services delivery systems).

However, much of the planning in the 1980s was built around successful protection of annualized funding for RTCs, NSCs and SSCs and substantial one-time support for substantive, management and leadership training (which might have spawned ongoing ventures based at Western Center, Mass Law Reform and NLADA).⁷ While many of the NSCs and

⁷ See, e.g., High Quality Representation proposals (1983); Houseman's mid-80s writing on policy advocacy; The Plan for the Future (1988).

SSCs remain, the RTCs are gone and the support centers have lost their general purpose funding.

In retrospect, it seems likely that other developments during the 1980s were attempts to overcome weaknesses in the decentralized infrastructure created by OEO and LSC and then placed at the center of the legal services delivery system when LSC became hostile to the mission of legal services handed down from the 60s and 70s. For example, the Uniting Support proposals focused on failures in both national and state support to fulfill the critical leadership roles "assigned" to them in the on-going infrastructure of the decentralized system in the 1980s. Similarly, Algodones Associates, Singesen & Tyrrell Associates, the Spangenberg Group, the Quality Consortium, the Fund Raising Project and MIE might all be seen as responses to the inability of NLADA, PAG and the ABA to meet various national infrastructure needs.

Of course, there were other reasons that planning in 1993 was different than in 1981, and some of them have important implications for thinking effectively in 1998. For example, IOLTA has emerged as a major force in funding legal services delivery; even if the focus of planning were otherwise about LSC programs, the existence of IOLTA grantors and non-LSC IOLTA grantees would lead to thoughts of more effective "delivery system" planning.

IV. The Learning Infrastructure Today -- Pieces of the Puzzle

How is the community of advocates organized in 1998? What are the organizations involved in the learning infrastructure? How can current practices be understood in a systematic way? Knowing the answers to these questions is a first step toward determining what might be done to ensure improved levels of advocate knowledge and skill in the future.

This section of the paper describes some pieces of today's learning infrastructure (by no means all) and suggests some analytical reference points for thinking about how that infrastructure operates.

A. Activities of the Support Structure Formerly Funded by LSC

1. Regional Training Centers

When Congressional action cut back "support" funding in 1995 and eliminated it in 1996, the five Regional Training Centers (Northeast, Southern, Mid-West, Western and California-Nevada) all went out of business, and their executive directors (with about 40 years of experience running RTCs among them) stopped working in legal services.⁸

The RTCs had provided planning, coordination, library and development functions for training in their regions. No other organizations have attempted to take their place. Their libraries of materials (Catalog of Training Materials, 1988?) have become scattered and harder to obtain (they can reportedly still be found at the Clearinghouse and perhaps at Mass Law Reform and the Western Center). There may be no one currently collecting newer training materials.

Some activities that the RTCs supported have continued without them. For example, the Committee on Regional Training (CORT) set up in Ohio and Michigan is still operating⁹ and the Southeast Project Directors and Administrators Associations still meet twice a year.¹⁰ The Benchmark Institute, which provided RTC services under a contract with the Western Center

⁸ Mary Thomas, Nina Coil, Judy Rausch and Kevin Carey (who has more recently passed away), the RTC staff leadership, all left legal services when the RTCs were defunded. Only Mary Burdick, at the Western Center, has stayed in the system, and she subcontracted her RTC functions to The Benchmark Institute.

⁹See T. Stangl, (article), MIE Journal 1998.

¹⁰A consultant organization from Tennessee, the Equal Justice Foundation, was hired to handle the administrative responsibilities. Funds for the contract came from conference registration fees.

for Law and Poverty, continues its work with California and Nevada direct delivery organizations (but only on a fee or contract basis).

2. National Support Centers

LSC's national support funding also disappeared in 1996, but almost all national support centers have stayed in operation. Their primary activities are litigation, legislative and administrative advocacy, and research and writing about substantive issues. Often these activities produce important information for local advocates, which is communicated through legal briefs, articles (see the Clearinghouse Review, for example) and some task force discussions.

In addition, some national support centers commit significant resources to periodic national, regional or state-level training events (e.g., the series of immigration law trainings conducted by the Immigration Law Center, several tracks at the NLADA SubLaw Conferences, elder law conferences sponsored by both AARP and by the Center on Social Gerontology, homelessness conferences sponsored by the National Center on Homelessness, the welfare training of the Center for Budget and Policy Priorities and the welfare conference calls of CLASP and the Welfare Law Center).

While these training activities continue, it is increasingly necessary for the national support centers to cover their real costs of participating in these events. No grantors are funding the centers to do training as such.

3. State Support

Prior to 1996, LSC provided at least some funds for state support functions in every state. These functions include advocacy, information dissemination to staff and client communities, coordinating advocacy by direct delivery organizations, management and administrative support, leadership in the state's delivery system and, of course, training.

LSC state support funds went to a variety different entities. In the fourteen states with only one LSC grantee, that grantee allocated the funds to support functions within its staff. In about fourteen states, including almost all states with more than \$16 million in total funding today, an independent state support center ultimately received the funds and provided the functions. Among these states were a group of five whose state support center was founded in the 60s by OEO (Massachusetts, New Jersey, Ohio, Michigan and California.) and an additional two (New York and Pennsylvania) whose support center was organized in the early to mid-70s. Another seven were created when state support funding was increased by LSC at the end of the 70s (Texas, Oklahoma, Florida, Virginia, Tennessee, Kentucky, Louisiana). In the other 21 jurisdictions, one LSC grantee (usually the largest organization in the state) generally took responsibility for state support functions that were delivered throughout the state. In at least two instances (West Virginia and North Carolina.), the state support funds were distributed among all of the grantees in the state. The five "non-state" jurisdictions did not have state support grants. ("Start-up" grants of \$20,000 were made in 1994, and additional plans called for a total of \$252,777 for 1995, but these grants were ultimately lost to

rescission.)

Since the elimination of LSC’s state support funding, these functions have continued, but at a dramatically reduced level, by an even more complicated array of providers. In the states with independent state support centers, six of the seven older centers shifted to non-LSC funding and continued to operate, usually at reduced levels; in Ohio, state support stayed within an LSC-funded entity. All of these states rely on LSC for less than 60% of their total funding today. Of the seven newer independent entities, Oklahoma and Louisiana disbanded while the other five continued independent of LSC funding, usually at much reduced levels. In the 19 jurisdictions with a single LSC grantee, support functions continue as a natural part of program management. In the 21 states with more than one program but without a prior independent center, the grantee that had been receiving the state support funds has often continued to provide some support functions under a contract arrangement with others in the state. However, the July 1998 SPAN report on the advocacy and support structure suggests that only Arizona, New Mexico and South Carolina now have a program providing training to advocate.¹¹ Arkansas has one person providing state support services (including training) who was omitted by SPAN. That leaves 18 states that appear to lack a state support training function today.

This data is summarized in the following table:

STATE SUPPORT STRUCTURES IN MID-1998				
Independent Centers		Single LSC Grantee	Lead Program Doing Training	No State Support Training?
LSC < 60%	LSC > 60%			
California Massachusetts Michigan New York Ohio Pennsylvania New Jersey Florida Minnesota Virginia	Texas Kentucky Tennessee	Connecticut Hawaii Kansas Maryland Washington Idaho Maine Micronesia Montana Utah Wyoming Alaska Delaware DC Guam Nevada New Hampshire Rhode Island Vermont Virgin Islands	Arizona New Mexico South Carolina Arkansas	North Dakota South Dakota Nebraska Alabama Indiana Oklahoma Puerto Rico West Virginia Wisconsin Colorado Georgia Iowa North Carolina Oregon Louisiana Mississippi Missouri Illinois

¹¹Table, “Advocacy and Support Structure,” in The SPAN Update, pages 22-23 (July 1998). The SPAN data may not be complete.

The table, and the data upon which it is based, probably have errors that make it difficult to understand fully the current situation with regard to the state support training functions. Of particular importance may be training coordination in states with just one LSC grantee but one or more non-LSC direct delivery organization (e.g., Washington, Connecticut, Delaware, New Hampshire, Vermont, Maryland and DC), and in states with multiple LSC programs as well as non-LSC direct delivery organizations in which there is no reported “state support” training but there is coordinated statewide training nonetheless (e.g., Indiana, West Virginia and Puerto Rico).

In each of the first three columns, there seems to be an entity positioned to assume state training leadership to the degree that it is called for at the state level. Who will take the responsibility (and the entrepreneurial opportunity) in the states in the fifth column?

Until 1996, the National Organization of State Support Units (NOSSU) brought state support directors together for periodic meetings at which policy issues related to state support could be discussed. While practically every topic was on an agenda at some point, funding from LSC became and remained the primary topic of NOSSU discussion. In 1996, when Congress eliminated the state support line, NOSSU became less active. Today, most of the separate state support organizations are not funded by LSC at all, and rely for financial support on IOLTA and other state funding. Whether NOSSU still has a significant role is unclear.

B. The Relationship of Total Funding, Program Configuration, and History of State Support to Learning Issues

It seems clear that states with the largest amounts of total funds will have the greatest flexibility in designing and implementing training systems that meet the needs of staff, pro bono attorneys and community advocates. Similarly, states with the highest rates of non-LSC funding per poor person will have the greatest ability to respond to training needs within the states.

Program configuration has a more complex relationship to the capacity to provide training. For example, states with a long tradition of strong state support may be better able to implement effective, coordinated learning and training programs, even where there are a number of programs in the state, than states in which support structures are less well established. On the other hand, in states with only one LSC-funded program, questions about training may be more closely related to issues of management, values, and norms within that program than to any traditional support structure.

Total Funds, LSC Dependence, Number of LSC Grantees, and State Support: The Table on the following page sets out the relationship of these four elements to one another in the current direct delivery infrastructure of the 55 LSC-funded jurisdictions. “Newer state support” refers to the history of LSC support funding, as described in the preceding section. The chart identifies groups of states that are similar in the way that these elements interact.

These categories may provide a basis for thinking about the nature of the challenges faced by different states in coordinating training and learning activities, and identifying strategies that similarly situated states have found to be successful in addressing them.

Total Funds: The top eleven states, with total funds in excess of \$16 million each, are Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Michigan, Illinois, Minnesota, Florida, Texas and California. Because LSC's funding approach links total grants to number of poor persons, these states tend to be those with the largest numbers of poor persons. But the correlation isn't perfect. Some jurisdictions with large poverty populations miss the list because they have relatively little non-LSC funding (e.g., Puerto Rico and most of the South -- Louisiana, Georgia, North Carolina, Tennessee, Virginia, Mississippi, Alabama), while Massachusetts and Minnesota, with smaller poverty counts, make the highest funded list because of large amounts of non-LSC funding.

Non-LSC Funds Per Poor Person: The most successful states by this measure (at more than twice the mean of all states, with \$19.35 to \$47.11) are New Hampshire, Vermont, Massachusetts, Connecticut, New Jersey, Maryland, Minnesota, Alaska and Hawaii. Not quite as successful, but still above the mean (\$8.90), are Rhode Island, New York, Pennsylvania, Ohio, Delaware, Virginia, Florida, Kansas, Washington and Oregon. These states include all possible models of centralization and decentralization in their delivery systems.

A solid band of states unable to raise even an average amount of non-LSC per poor person stretches from North Carolina and West Virginia to California, excepting only Kansas, Minnesota, Florida, Washington and Oregon. The states in this category also have all types of consolidation and cooperation models. What unites them, however, is that their general populations tend to be more conservative politically and ideologically than those in states that give more funds to legal assistance work.

The smallest amounts of non-LSC resources are found in a solid band of states from Montana, South Dakota, Idaho, Wyoming, and Utah, through the Southwestern desert states of Arizona, New Mexico, Texas, and Oklahoma, and into the deepest South in Arkansas, Louisiana, Mississippi, and Alabama. The other states which have had the least success raising non-LSC money are Wisconsin, Indiana, and South Carolina. Probably for different reasons, Puerto Rico, Guam and Micronesia also fail at raising non-LSC funds.

As noted earlier, as many as 34 of the states with “newer” state support operations did not have separately incorporated and governed state support organizations even before the cuts of 1995 and 1996.¹² One fact the Table demonstrates is that separately incorporated and governed state support centers were (and still are) generally limited to states with five or more programs; all of these states have at least \$3 million in total funding in 1998 and 11 of these 16 states have more than \$16 million in total legal assistance funding today.

¹²These states are ID, ME, MC, MT, UT, WY, ND, SD, AK, DE, DC, GU, NV, NH, RI, VT, VI, NE, HI, KS, MD, WA, AL, IN, PR, WV, WI, GA, IA, OR, NC, MO, IL?, MN?.

STATES LISTED BY PERCENT OF NON-LSC FUNDS, NUMBER OF LSC GRANTEES, TOTAL FUNDING AND EXISTENCE OF LARGE STATE SUPPORT CENTER					
Total State Funding	Number of LSC Grantees	LSC > 60%		LSC < 60%	
		Newer State Support		Newer State Support	Oldest State Support Centers
Less than Three Million	One	Idaho Maine Micronesia Montana Utah Wyoming		Alaska Delaware* District of Columbia Guam Nevada New Hampshire* Rhode Island Vermont* Virgin Islands	
	Three	North Dakota South Dakota		Nebraska	
More Than Three Million But Less Than Sixteen Million	One	----		Connecticut* Hawaii Kansas Maryland Washington*	
	Two to Four	Alabama Indiana Oklahoma Puerto Rico West Virginia Wisconsin		Colorado Georgia Iowa North Carolina Oregon	
	Five or More	Arizona Arkansas New Mexico Kentucky Louisiana Mississippi South Carolina Tennessee		Missouri Virginia	
More Than Sixteen Million	Five or More	Texas		Florida Illinois Minnesota*	California* Massachusetts* Michigan New York* Ohio Pennsylvania* New Jersey*

* State has at least one major provider without LSC funding.

C. Characteristics of State Learning Infrastructures

To identify some of the patterns of behavior related to the learning infrastructure within each state and within some programs, PFEJ has begun gathering specific information about learning activities in each of the 55 legal assistance jurisdictions. A “Basics” page for each jurisdiction is being prepared for posting on the PFEJ website, where they can be amended and improved by people working in each jurisdiction.

These pages will describe existing state support and training structures, if any; report on the organizations that make up the community of advocates; describe any statewide annual conferences and task forces; identify websites (at which further information on training in the state may be available); mention what is known about formal in-house training in one or more of the state's organizations; and highlight interesting features in learning within the state. This information will make it possible to compare patterns among different states, and may suggest possibilities for change in particular states.

For example, one might compare the Basics pages for Arkansas, New Mexico and Mississippi, states that fall into the same category in the chart in the preceding section: all three are states dependent on LSC for more than 60% of their funding, have between \$3 million and \$16 million in funding and include five or more LSC grantees. Their training infrastructures are relatively similar as well, although not identical. Other states in their category (particularly Tennessee, Kentucky and South Carolina) are known to have somewhat greater commitments to an ongoing, non-LSC state support capacity and to related training events. Examination of such differences may suggest feasible changes for Arkansas, New Mexico and Mississippi.

Much more complex comparisons would be required to examine California, Michigan and New York, three of the seven states with the greatest ongoing commitment to state support and state-level training (and with the non-LSC resources to do something about it). In the first place, these seven states (and perhaps Florida, Illinois and Minnesota as well) have extensive communities of advocates and depend on LSC for less than 60% of their legal assistance activities. In addition, this list includes almost all of the states with the largest poverty populations. While states like Arkansas, New Mexico and Mississippi struggle with great challenges in order to make small changes in their learning infrastructures, these large and relatively well-funded states have the resources (both within and outside the community of advocates) to innovate, expand and maximize the quality of outcomes their clients obtain.

The rest of the country can reasonably expect these more successful states to provide examples of what an ideal system can produce for clients. In addition, the creative processes at work in these states should provide insight and guidance to methods of developing the learning infrastructure that might be adaptable elsewhere. To the degree that their reality is less than ideal (and, of course, it is), that experience may suggest that we have unrealistic expectations about what can be accomplished, or it could lead to the conclusion that larger aggregations of resources do not hold all of the answers to providing high quality, effective and efficient legal services.

D. Direct Delivery Organizations

Direct delivery organizations are the core of the learning infrastructure. Undoubtedly the majority, and perhaps 80% or 90% of all learning, takes place in-house in informal daily interactions among colleagues. These interactions are usually uncounted and are often not even thought of as "training." Organized training events such as new staff member orientation and staff meetings with updates on law, practice and the community are only the tip of the in-house learning iceberg. The bulk of the learning events happen below the surface, in both

daily and more episodic supervision, case acceptance and case review practices, using the expertise of colleagues to solve problems, finding mentors, reading cases, treatises, manuals and articles and talking about poverty law with the array of individuals who people any legal services office.¹³

Much of this local behavior must remain unobserved in this PFEJ inquiry. But that does not mean that plans to change the learning infrastructure must ignore these activities. To the contrary, since learning is such a local matter, plans for improvement must be grounded in the daily activities of advocates within their offices.

E. Other Local and State Elements of the Infrastructure

1. Labor Organizations Within Direct Delivery Organizations

The existence of training provisions in the collective bargaining agreements of unionized legal services programs should be kept in mind during planning about training. Collective bargaining could be a force for either positive or negative change in local program training practices. To the degree that training recommendations contradict contract provisions, the recommendations will be more difficult to implement.

We have reviewed a packet containing clauses dealing with training from collective bargaining agreements from MIE's resource library. The clauses are not current and may not represent current collective bargaining agreements. Moreover, we have no way of knowing whether these clauses, even when they were in effect, were actually carried out. Nevertheless, they give some insight into some general patterns.

Among the issues covered in the clauses were the following: establishment of labor management training committees; general statements of commitment to training; commitment to providing program orientation; commitment of modest levels of resources for training; rarely, description of the content of training that will be provided; provisions relating to payment for training and specifying that time spent in training will be paid. A more detailed summary of these provisions is attached as Appendix 1.

2. Mandatory Continuing Legal Education

Thirty-nine states now require some continuing legal education. Ten to fifteen hours per

¹³ We haven't made any effort to document the best training systems in use within local programs today. A few of the excellent in-house learning efforts that have come to our attention are the new lawyer training of Ohio State Legal Services Association (see Tom Weeks' MIE Journal article), the development plans utilized at Legal Aid Society of Cincinnati, and the long-standing commitment of Evergreen Legal Services to study of the community being served.

year are the usual requirements, almost always including at least some time spent on legal ethics. In many states, bar association providers of CLE sessions allow legal services attorneys and pro bono attorneys reduced rates or free admission to their sessions. Nevertheless, legal assistance organizations often pay for CLE credits.

Some legal assistance organizations are developing and presenting training sessions for which legal assistance attorneys, most particularly pro bono attorneys, receive CLE credit.

3. Protection and Advocacy Training

In New York and Massachusetts, a staffed nonprofit organization receives the state's P&A money and makes subgrants to legal services programs for the direct delivery of legal assistance to mentally ill individuals. (In most states the funds are managed by a state agency rather than a nonprofit.) In New York, DAA has become a central provider of training on administrative hearings as well as mental health; they provide a full day of training as part of the Partnership Conference. In Massachusetts, DLC has done some training (particularly as part of the DA&A and SSI Kids efforts) and Steve Schwarz's Center for Public Representation is a significant member of the advocacy community, but has not played a critical role in either MLRI training or tasks forces or local program training.

F. Other National Elements of the Infrastructure

1. NLADA, CLASP, PAG, MIE

a. Infrastructure support activities

Throughout the paper, the training roles of the leading national legal services policy and training institutions (NLADA, PAG, CLASP and MIE) are described. Two new features at this level of the legal services leadership system are emerging as this paper is written. PAG and NLADA have announced a merger, which should take effect at the end of 1998, and NLADA has recently formed a new Section on Advocacy and Support.. The new Section's stated purpose is to provide linkages and technical support regarding state and national advocacy efforts, training and resource development directed toward enhancing the civil legal services system.

b. National training conferences

National advocacy organizations currently play a significant role in the delivery of training through national training conferences. NLADA's annual Substantive Law Conference provides an example of the way that such conferences are funded. The current version of SubLaw emerged from the Substantive Law Training Working Group and Uniting Support Project (see Section III). SubLaw is very "successful" in drawing 400 or more advocates to a national training. But each track costs more in marketing and trainer travel expenses than its participant fees can cover. So each track is subsidized by the organizations that employ the talking heads who prepare the materials and deliver the lectures. Participant fees are limited because of fear that paying the real costs will cut into attendance, and because NLADA

perceives the SubLaw conference to be partially supported by member dues. The actual costs of trainer travel, plus the costs of NLADA staff time devoted to planning, developing, marketing and delivering the conference, substantially exceed NLADA's share of the participant fees. Perhaps the fee share covers out-of-pocket costs.

2. LSC

While congressional funding cuts have eliminated many of its training-related activities, LSC continues to play a modest training role. Recently, the Corporation has cosponsored hotline training and technology training, and individual Program Counsel have been lead trainers in these areas. However, LSC's direct participation in these events has resulted from the special skills of individuals working there rather than from development of any serious training program.

Although the OPO leadership and the Program Counsels are all interested in contributing to the quality and effectiveness of advocacy, and see training as a viable path on which to make such a contribution, LSC management simply does not have the money to manage competition, deal with noncompliance, seek funds in Congress, interact with the OIG, develop new regulations and, in addition, develop a significant training program. The inability to obtain any earmarked training funds for FY 1999, despite success in obtaining an increase of \$17 million, is instructive.

3. IOLTA

The role of IOLTA funders plays out primarily at the state level. However, both the National Association of IOLTA Programs and the ABA IOLTA Commission have potential roles in the national infrastructure.

4. PLI and ALI-ABA

a. The Practising Law Institute (PLI) (www.pli.edu)

With an annual operating budget of about \$12 million and a staff that appears to number about 110, the Practising Law Institute has provided training to lawyers for 65 years. PLI's current Executive Director is Victor J. Rubino, who was Managing Attorney in the New Rochelle office of The Legal Aid Society of Westchester County in the late 1960s and early 1970s. One PLI Associate Director is Steven Leleiko, who helped to found Camden Regional Legal Services and later worked in the clinic at NYU law school. In addition, PLI has a west coast office, which is headed by John Mola (John previously was an executive in California's MCLE, and before that was Project Director at Rhode Island Legal Services and Director of Lawyer Training for LSC's Office of Program Support in 1978-1980).

In 1998, more than 20,000 lawyers and allied professionals across the country will attend more than 200 PLI Institutes and Programs covering a wide range of legal substance and skills. In conjunction with the Institutes and Programs, PLI publishes lengthy course handbooks which are practical references for the substantive areas covered in the training sessions; the

handbooks are available in hard copies and, increasingly, in CD-ROM versions as well. The programs are available in audio and video cassette versions for those who can't or don't want to attend them live. PLI also publishes reference books in about ten subject matter areas, including computers, immigration, and litigation. PLI programs are approved for MCLE credit in most states.

In addition, PLI's Interactive Media Division markets the "Interactive Courtroom" series of CD-ROMs, laserdiscs and audio skills-training programs. PLI's Select Training Services Division is available to consult with law firms, government agencies or nonprofit organizations regarding specific training needs and how to meet them.

PLI's primary customers are private law firms, and the substantive program offerings reflect their interests and needs. But there are crossover topics such as family law and immigration, and there are litigation skills and professional responsibility programs with generic training components. For example, the family law curriculum includes a program on Child Custody and Support, covers relocation, UCCJA, PKPA, CSSA, recent legislation and cases and ethical issues. In addition, PLI has a 20-program "Pro Bono / Power Skills Series." Some of the topics are poverty law, like basic elder law and L/T law. Some are of broader interest, such as current issues in advising nonprofit organizations. Some are irrelevant to legal assistance programs. Not surprisingly, the principle trainer for L/T is the head of LSNYC's Legal Support Unit, Andy Shearer (and the program is specific to NYC L/T). PLI offers scholarships to legal services advocates and pro bono attorneys.

The Select Training Services curriculum is designed to be brought into a firm or agency and adapted to the site. Lawyers from the firm work as trainers under the guidance of PLI's consulting lead trainers. The prices are high, and the existing materials are based on corporate litigation situations, but the approach is very malleable and lead trainers with legal services expertise could adapt the model with ease.

b. ALI-ABA

ALI-ABA presents about 100 courses of study per year for thousands of lawyers. Founded 51 years ago, ALI-ABA has expanded from its traditional base of books and periodicals to satellite programming, audio-visual materials and many special projects. It has an annual operating budget of approximately \$12 million and employs 75 people, including 18 lawyers. Its board consists of ten representatives each from ALI and ABA, plus three top officials from each *ex officio*. The Executive Director of ALI-ABA is Richard Carter, who was the Director of the National Legal Services Training Program at Catholic University in the early 1970s, then the first director of the LSC Office of Program Support.

5. Elder Law Advocacy

This is an area about which we do not have sufficient information. We need to learn about the extent of AARP/SCLC/LCE/CSG training, the size of the elder advocacy world, its preoccupations and needs (including non-LSP providers of legal assistance advocacy), and take account of what training is offered.

V. Thinking About Training: Some Questions and Considerations

A. In Simple Terms.

What can be done to make it more likely that an advocate will know what she needs to know and have the skills that she needs to have in order to provide the best outcome available for a client's legal situation, as guided by the client?

Analytically, there seem to be three central elements to a strategy to improve client outcomes through advocate learning:

First, the advocate has to want to change. Wanting includes avoiding complacency and self-satisfaction, awareness of current limitations, awareness of the possibility of better outcomes, willingness to work extra hours to make improvements, self-discipline, and a desire to do better.

Second, the organization the advocate works for has to support the advocate in changing. Support may include commitment to the belief that advocates should grow and improve, financial resources, release time, supervision, training sessions, leadership, adoption of appropriate technologies, and adoption of individual training plans..

Third, the learning tools must be available. Learning tools include self-study materials (cases, treatises, training courses, online research skills and materials), colleagues and supervisors who can teach what the advocate needs to learn, appropriate training events (task force meetings, in-house training sessions, external training sessions) and courses, access to appropriate technology, and access to capable external expertise through a system of local, state and national delivery entities that combine to make available the information needed.

Buried in this simple set of statements are all the elements of an effective learning infrastructure. All three statements must be addressed in the process of improving the legal services learning infrastructure.

B. “Training” and “Learning”

As used in the PFEJ's goal -- “to ensure that new advocates obtain the skills and substantive knowledge necessary to provide high quality service, to help experienced advocates enhance their skills and obtain specialized expertise” -- “training” is about “learning” rather than the traditional model of a formal interaction in which one person teaches and another learns. Whether training is effective in achieving this goal is tested by examining the knowledge and competence levels of advocates and other staff.

Given this broad scope for an inquiry into a training infrastructure, all of the following events involve learning for which the learning infrastructure should provide support:

- a Project Director takes 15 minutes at a staff meeting to talk about current arguments

swirling around the appropriate roles for hotline advice as opposed to full representation;

- a supervising attorney reviews an employee's cases, discussing theories of the case, research and trial tactics;
- a managing attorney signs off on case closing memoranda, and rejects some of them because the case notes haven't been completed and the closing letter hasn't been sent;
- a more experienced lawyer second-chairs a young lawyer's first motion, or a young lawyer second-chairs an experienced lawyer;
- an experienced attorney in a support center (within the same program or in a separate program) tells a younger attorney what the law says and what to do in a particular case;
- an attorney reads advance sheets;
- an attorney researches a current case, drafts a memorandum of law and receives constructive feedback from another attorney;
- an intake worker goes to a battered women's shelter and discusses cross referrals with the shelter staff;
- a staff lawyer talks to social workers and community aides at a senior citizens center about HMO responsibilities under Medicare;
- a secretary reads several local newspapers and tells his boss about community developments;
- a paralegal learns Spanish;
- John Kemp installs the latest version of his software.

Perhaps the goal of the learning infrastructure should be to develop and maintain a staff of "learned advocates" in the community of advocates, each at the level appropriate to their developmental stage. Such a staff would be an effective and efficient professional force -- in the office, among the offices of the program, and within the city/area/state, regionally and nationally.

Another way of saying this is that the goal of the learning infrastructure is to maximize the capacity of each individual to perform his or her role.¹⁴

¹⁴ This focus on the individual is probably appropriate in the legal profession, which has traditionally been very individualized, consisting primarily of solo and small firm practitioners. Good lawyers are "lifelong learners." Edward Bennett Williams used to claim that he had a "bathtub" mind; for each case he would drown himself in the relevant facts and law. Then, at the end of the case, he'd pull the plug and begin learning what he needed to know for the next case. Paradoxically, this professional tradition may have the effect of discouraging some lawyers from undertaking formal training, because they believe that they (and other lawyers) already know or can go and learn on their own what they need to know -- law school has already taught them how to "think like a lawyer," they believe, and they can simply go to the library and read the cases as the need arises. The connection between formal "training" and effectiveness does not seem to be broadly recognized, so the absence of formal training is not perceived as a gaping hole in the delivery system.

C. A Broad Definition of “the Community of Advocates”

The phrase “the community of advocates” has emerged in many analyses of the current legal services world. It reflects the fact that a wide variety of organizations and individuals provide legal assistance to low income individuals, families and communities today. Many analysts are convinced that the needs of low income clients can best be met through a comprehensive, integrated delivery system that includes the full community of advocates as active participants. In planning the development of an effective learning/training infrastructure, it will be necessary to keep in mind the scope of this broad community.

The community is composed of direct delivery organizations, specialized advocacy organizations, technical assistance organizations, law schools (clinics, students and faculty), both pro bono and compensated lawyers and paralegals working for low income clients, and community organizations of all kinds that engage in advocacy for the poor.

Direct delivery organizations provide direct legal assistance to clients in a defined area within a state (or several states); such organizations include both LSC and non-LSC organizations, of course. LSC’s migrant and Native American grantees are direct delivery organizations. These organizations have widely varied training situations. Some direct delivery organizations may not use lawyers to provide services (e.g. shelters).

Specialized advocacy organizations offer legal assistance focused on a narrow substantive range or a narrow population group. They can be local, state, regional or national. Examples might include the Massachusetts Tenants Organization (MA), New York Lawyers for the Public Interest (NYC), and MALDEF (national).

Technical assistance organizations help direct delivery and/or advocacy organizations, usually regarding a narrow substantive topic or a narrow population group. Technical assistance, for this purpose, includes training, publications, legal advice and consulting services. These organizations can be local, state, regional or national. Examples might include the CORTs, Regional Training Centers, the Practicing Law Institute, Algodones Associates, the American Bar Association and LSC. This is where the national leadership entities belong as well, such as MIE, NLADA, IOLTA and NAPIL.

There are also a number of combined advocacy and technical assistance organizations. The historical state and national “support” centers are in this group, as are CDF, CBPP, CLASP, the AARP Legal Services unit, the Farmworker Justice Fund, the Bazelon Center for Mental Health, the National Women’s Law Center, the Women’s Legal Defense Fund, the Legal Defense Fund and the Lawyers Committee for Civil Rights Under Law.

We should keep in mind that the advocates in this broad community are in many roles, including new, mid-level and experienced paralegals, new, mid-level and experienced lawyers, supervising attorneys, lawyer middle managers (managing attorneys, deputy director), Directors of Litigation or Advocacy Coordinators, Project Directors, Administrators, financial

officers, bookkeepers, accounting clerks, secretaries, receptionists, auditors, evaluators, assessors, members of community organizations, Board of Directors, and volunteers.

In addition, both pro bono and compensated lawyers and paralegals work for low income clients in conjunction with all of these types of organizations as well as independently. Some of these lawyers and paralegals are LSC-compensated or LSC-recruited and supervised. In addition, the ABA Legal Needs study demonstrated that two-thirds of all legal work for low income individuals is provided by attorneys and paralegals working for a fee paid by the client); these advocates must also be included in our community of advocates.

Finally, there are community organizations of many kinds that engage in advocacy for the poor. While they may be difficult to encompass in an analysis of the training infrastructure, at least local legal advocacy organizations must take them into account.

D. National Vision and Local Reality

Despite the persistence at the federal level of a vision of a comprehensive, integrated national legal services system for more than 30 years, legal assistance work proceeds primarily through the work of advocates who go for weeks and months with little or no contact with any national system. The advocates' frame of reference tends to be their colleagues at work, their employers, their clients, other advocates in their towns, their community's agencies and courts and, occasionally, advocates working in other legal assistance programs. Among advocates in the thirty-five "state" jurisdictions with more than one LSC-funded basic field program, even a state level vision may be no more than distantly perceived.

Analysis of ways to improve the learning infrastructure needs to be grounded in the local level, where almost all of legal services advocacy occurs. Some possible improvements may involve national, regional and state organizations, but these improvements probably need to be evaluated by whether they actually produce beneficial changes in the results clients obtain from local advocacy. Some planning efforts conducted by nationally-convened committees and organizations over the years may have had trouble keeping the local advocate clearly in view. National solutions, national entities and national leadership may come to mind more easily than learning strategies that motivate and engage individual paralegals in Chilecothe, new lawyers in Boise, managing attorneys in Gallup and administrators in Charlottesville. Discussion of improving a "training infrastructure" must take account of this tension and develop strategies that will work in the real world of present-day legal services advocacy.

E. Does One Strategy Fit All Direct Delivery Organizations?

There are about 270 LSC grantees, hundreds of additional direct delivery organizations, and thousands of other organizations in the community of advocates. Their current performance varies immensely. Some are truly excellent, many are quite effective, many more seem mediocre and some are doing very ineffective legal work. Would it be worthwhile to think about possible strategies from the perspective of how they will work in programs that

are at different levels of performance?

For example, can a set of strategic actions affect the culture in mediocre or weak legal assistance organizations and lead those organizations, and the people in them, to make different choices and improve their performance for clients?

It seems unlikely that there is a “supply” strategy that can accomplish that result. The effects of supply strategies are usually too limited. Not even the exceptional strategic interventions, such as the Reggie program, the several cycles of invasive evaluations, the well-funded LSC regional office strategy in the late 1970s combined with an \$11 million national training initiative, or 30 years of various “support” strategies, have had more than spotty results in changing organizations whose performance was mediocre or worse.

F. Isolation/Fragmentation

There are fifty advocacy organizations providing legal assistance in New Mexico, and 200 agencies dealing with the legal problems of the poor in Orange County CA (just one part of the L.A. basin service area). Yet the learning infrastructure with which we are familiar has almost nothing to do with those organizations and agencies. There are probably a number of causes for this lack of interaction.

The early OEO legal services program was almost solely funded by the federal government, and was regularly under attack from external enemies. It seems natural that the people in the system became fairly insular in their perspective. In addition, in quite a few communities, the usual pattern of close working relationships with community action agencies did not evolve; even CAA’s sometime sued, or were sued by, legal services programs. Other factors in maintaining the separation of legal services advocates from advocates in other organizations probably include arrogance, low self esteem, lawyers’ professional elitism, being seen and treated as “others” in the low income community, the lack of training in effective methods of working collaboratively and a board structure that included client representatives but may paradoxically have driven a wedge between the legal services program and the community.

What cannot be gainsaid is the continuation of at least parts of these patterns of isolation in many communities and states. Not many years ago, a significant part of a training program for state IOLTA executive directors was taken up with trying to understand why their LSC grantees treated them so badly, and what to do about it. In many LSC service areas, PAI is still no more than tolerated.

The learning infrastructure appears to offer good examples of this persistent pattern. At quite a few of the major national, regional and state-level legal services training events, there are very few “outsiders” involved, either as trainers or as participants. This includes NLADA, MIE, SEPDs and many annual statewide conferences. The LSC pressure to undertake state level planning (in 1995 and again in 1998) forced some states to broaden their inclusiveness, but in other states the desire for control and exclusivity was stronger than the

LSC pressure, and little new inclusion has resulted so far. This reality persists even in the face of universal declarations that survival is jeopardized by continued isolation.

How well will the infrastructure developments recommended in this paper work at the intersection of the LSC programs and the broader community of advocates?

G. Content Issues

What training is “needed” in the community of advocates? Where to start? What matters most? All of these are good questions, but they probably call for judgments that don’t have to be made just yet. In the current legal services community of advocates, with \$25 million in support funding having been lost, the needs overwhelm the resources now committed to training. Instead of investing energy in careful distinctions, it is enough to begin by focusing on what we know to be essential components in training/learning.

1. Basic Lawyer Skill Training.

If TRAIN were to do no more than ensure that an estimated 400 recent law school graduates hired into LSC-funded programs each year get a serious, competent new lawyer training (BLST plus), it will be remembered as a great success. Currently, some larger states have organized training for new lawyers (Benchmark, LSNYC, OSLSA), although we don’t know enough about it to evaluate its effectiveness. The Core Curriculum suggests the basic content of a substantive and skill training in the first several years (see Appendix 3). Tom Weeks’ article in the MIE Journal outlines a program that runs through the first year of a lawyer’s employment.

2. Other Fundamental Areas

A number of other basic areas of training are easily identified. While content for most of these programs is readily available in most states, as well as nationally, it is entirely possible that the majority of workers in legal services organizations today have not attended the trainings on this list that would be appropriate to their current roles. These fundamental areas include:

- entry level orientation for all staff members, including information about legal services history and mission as well as the program's operating systems.
- computer training for everyone, and some specialized computer training for advocates doing research.
- financial management training for project directors, administrators and financial officers.
- management training for managers at various levels.
- supervisory skills training.
- substantive law learning on an ongoing and increasingly sophisticated basis.
- advanced lawyer skills training of many kinds.

3. Existing Content Models

Beyond the basics, it would be possible to generate an almost infinite list of possible training sessions, events, and programs. Fortunately, we don't need to create such lists: others have done that work for us (although part of the work that lies ahead is choosing where to place the emphasis within such a list). For example, the National Training Coordinating Council (NTCC) undertook in 1991-92 to develop the "**Core Curriculum**," a basic course of learning, in both skills and substance, for all legal services employees. Another valuable curriculum was developed by the **Benchmark Institute**, a unique California "support" organization incorporated for the purpose of providing training and development services for the public interest legal community. These two curricula are described in detail in Appendix 3.

4. Training of Trainers

If new training norms are adopted, there will be a substantial need for additional people to do training. Any plan for achieving new national learning norms will have to include plans to make training of trainers and training of mentors, supervisors, senior lawyers and managers more common.

H. Technology and Training

Any plan to improve the training/learning infrastructure will have to pay careful attention to training on the use of technology. On a simple level, technological potentials remain undeveloped because there is too little competent training of legal services workers on how to use the technology that organizations already have or could easily have. Many pentium-chip computers are used as typewriters, with advocates who don't even know how to transfer files or merge documents. "Training" consists of a brief lesson by a modestly-skilled "computer responsible person" in how to get email and save a document. Case management systems are closed to advocates to avoid corruption of the data base by incompetent data entry. Access to the internet exists, to meet LSC's requirement or because someone in the office is interested, but most or all advocates can't distinguish a web browser from a web site. It seems obvious to note that technology is only as good as the training and support that its users receive.

On a more complex level, learning techniques that depend upon technological tools are inaccessible to advocates. Task forces in states continue to rely on hard-copy information and expensive live meetings because too many participants are unable to download updated information or use listservs effectively (live meetings do have values apart from these functions, of course, but dependence upon them is excessive). Supervision of current caseloads disappears or is spotty when case management software does not unreliably produce lists of current cases assigned to specific advocates; the training to keep the CMS operating reliably isn't easy to get and leaves system-users uneasy about reliance on the CMS.

States with more than a couple of organizations almost all have incompatible and inconsistent hardware and software. While Email and database networks are becoming more common within states, including some shared databases and access to central brief banks, pleading forms and legal research materials (New Jersey, Michigan and Massachusetts are among leaders), it is almost exclusively the current and former LSC recipients that are on the networks. (Exceptions may exist in such states as Maryland and Washington, at least for some levels of interaction. At this point, we don't have much information about what the most advanced states are doing to train network participants.'

Delivery systems that rely heavily on technological tools, such as some of the hotlines, report that they invest a lot in initial training. In addition, substantive "expert systems" that allow advocates to review relevant legal information while talking to a client on the phone require constant updating and related retraining. Leaders in this arena include Wayne Moore (LCE / AARP Litigation Group), Mary Ann Sarosi (Michigan State Bar, formerly CRPLS) and John Kemp's WinCases. The PFEJ Technology Advisory Group (TAG) is involved with a proposal by Sarosi and Moore to explore software that helps measure outcomes in hotline work.

I. Standards and Norms

1. Quantitative Standards

The recommendations in the first section of this paper include a suggestion that specific amounts of training be assured for staff in different levels of experience as one of the norms of the legal services advocate profession.

We don't actually know, of course, what current amounts of training of various kinds are obtained by workers throughout legal services. A very rough estimate is that on the average, each worker in a legal services program spends about one week per year engaged in training activities. Assuming 48 worked weeks per year, that's 2% per year in training.¹⁵

¹⁵ Assume the following participant levels at the following national training events: NLADA Conference (400); Pro Bono (500); SubLaw (450); New Delivery (Dallas) (500); MIE MIM (100); S&T (100); SEPD (100); others (200). Total 2,350. Assume that 20% of each conference's attendance involves people who also attended another one of the events (it may be more than that). That leaves 1,900 unique participants. The average conference runs for two 8-hour days, or 16 hours. So this is 30,400 hours of training at national events.

LSPs employ about 5,000 lawyers (LSC grantees and other direct delivery organizations). The majority of states require about 15 hours of CLE per year. That's 75,000 hours, already more than twice the training hours spent at the national events. If 1/4 of the lawyers belong to state task forces that meet 3 times per year for 3 hours of learning, that's 11,250 hours. If each state has a 2 day statewide meeting devoted to learning, that's 80,000 more hours (discounted for some overlap with CLE). Then there's supervision, in-house

How much training time will produce better advocacy and better results for clients? Of course, there is no answer to such a pivotal question. But doubling the training means an average of two weeks per year; more in the first year or two, and probably more time than that for the lawyers and paralegals in order to keep up with current legal developments.

A caveat: measurable performance standards could lead us into a trap. What we could measure is the amount of time people spend in training events, or reading materials to learn new substantive knowledge. Since we don't really have standards for learning efforts at the moment, establishing any measures might even suggest to some that they cut back on their learning endeavors.

2. Alternative Approaches

Another approach to standard setting might be drawn from the practices of the legal profession's trade associations. Roger Smith, former Executive Director of the Legal Action Group in London (a combination of NLADA and the Clearinghouse) and now Director of Education for the Law Society (the English Bar Association) sees three paths tied to "training" in the broad bar: mandatory CLE; certification and other merit-based validations of skill; Masters in Law and other advanced educational attainments. Each of these paths offers possibilities as an approach for developing standards:

Mandatory CLE: Training standards could be developed by NLADA and eventually forwarded for approval by the ABA and the Association of Continuing Legal Education (known as ACLEA). In states with current mandatory CLE, the suggestion could be put forward that the standards indicate appropriate lawyer training. Alternatively, LSC or AoA nationally, or individual IOLTA programs, could attach grant conditions related to training.

Certification/Merit-Based Validation: Similarly, NLADA or some other institution could create certification programs; upon satisfactory completion of certain programs or tests an individual would be "certified" (like a CPA). A Society of Fellows could be formed, to which individuals could be elected on the basis of merit. A legal services division of the American Trial Lawyers Association could be organized. In each case, achieving entry into the category would be worth listing on a resume and would signify excellence to others. Striving to achieve the honor would be accompanied by increased skills and substantive

training, training beyond the CLE minimum and, of course, training for all the non-lawyers. Just dealing with the non-lawyers, there are about 1,500 paralegals and 4,000 others; if these 5,500 people each receive training for just 24 hours per year, that's a total of 132,000 hours.

Together, these estimated training experiences for staff in the community of advocates total almost 300,000 hours. For the 10,500 workers estimated in the preceding paragraph, 300,000 hours is about 30 hours per year -- one week per year.

knowledge and, hopefully, by improved results for clients.

Advanced Degrees: Gary Bellow's original idea for the Legal Services Institute at Harvard was that there would be a dozen such centers in law schools around the country, and that legal services attorneys and paralegals would take academic years in the Institutes to deepen their perceptions and sharpen their skills, while participating in training and inspiring the next generation of poverty advocates. LSC never bought the concept; it funded only Gary's center.

However, creation of a pair of Poverty Law Fellows funded by IOLA at each of four law schools in New York may represent a revisiting of the idea. Each of the schools has both a clinical program and "stand-up" teachers with poverty law experience. If centers of learning coalesce around the Fellows, a modern instance of the Bellow idea may yet emerge.

The Interuniversity Consortium on Poverty Law, funded by the Ford Foundation between 1989 and 1994 to study connections between poverty advocacy and law schools, concluded that there were strong disincentives to close and continuous cooperation within both law schools and legal services programs. The IOLA approach, putting funded individuals within the academic setting but giving them clear limits on the degree to which they become involved in the academic life, attempts to avoid the distancing motivational pressures that exist within law schools. Requiring the Fellows to work closely with local legal services programs, and to meet among themselves a few times a year, is a reasonable approach to trying to preserve the cultural identity of career poverty lawyers working in a somewhat hostile environment. Only a longer trial will tell whether independent funding and programming will sustain this experiment.

3. Existing Standards

If establishing stronger norms in favor of professional development is a good idea, development and adoption of systemwide standards for learning and training may be a useful part of the effort. Some earlier standard-setting efforts have given some beginning guidance about possible learning standards. These include the ABA Standards for Providers of Civil Legal Assistance to the Poor (1986); LSC's Performance Criteria (1995) and State Planning Requirements (1995, 1998); and the Project's Discussion Document on a Comprehensive, Integrated Statewide System for the Provision of Civil Legal Assistance to Low-Income Persons.

The relevant sections of these standards are set out in Appendix 3.

In reviewing these standards, however, it is clear that they fall substantially short of setting real norms or stating measurable outcomes. Real standards aimed at the actual performance of local programs may be very difficult to establish.

J. Can Thinking About Outcomes Guide Development of the Learning Infrastructure?

Why do we want to improve the training infrastructure? To produce better outcomes for clients as a result of things that advocates do better after they have been trained. But stating our goal in terms of client outcomes brings several problems into focus.

First, we invest very little time or thought in any kind of evaluation of training. A participant knows that training was effective if she uses what she learned, and reports that training was good if she likes it when she is trained and believes she will use it. But very little or no expert verification of the trainee's judgment is ever attempted. How can the infrastructure learn whether trainees actually used the training, whether they used it "right," whether it guided them to "better" advocacy or whether clients obtained better outcomes as a result?

Second, even if more resources were committed to evaluation, what kinds of outcome measurements might be used to determine the effectiveness of "training" or "learning?" If such measures were identified, so that the training itself could be evaluated, could the effectiveness of the training infrastructure also be measured? Would the infrastructure improvements suggested in this paper be tested by the number of people spending a certain number of hours in a training event? By the number of hits on a website? By the evaluation questionnaires submitted to PFEJ?

Third, paying for training and improvements in the training infrastructure in order to produce **better** client outcomes takes money away from producing **more** client outcomes by continuing with current levels of skills and knowledge. Local decision-makers in a demand-based learning system won't make the allocation of additional funds for training unless they have a very clear understanding of bigger or longer-term goals that learning serves. They are very likely to prefer maintaining the count of current cases; current "units of service" are a powerful and immediate motivator in a service business such as legal services. Some grantors provide additional encouragement for maintaining case counts. Counting outcomes for clients is much more difficult. There is no "bottom line" or simple profit measure to turn to. Can outcome measures be found that possess such power that the payoff of investing in learning will become evident?

This is a particularly tricky area for a nonprofit system driven by a global or vague sense of mission or purpose. Moreover, the legal services mission often has an additional overlay C a vision of substantive justice with legal services roots in the 1960s. Is this a realistic vision for the next century? Since a real training inquiry is about effectiveness, where does training fit in creating the package of a legal services delivery system that delivers on the substantive justice mission?

Is there a parallel problem in the culture of national legal services leadership? Many of those in the national legal services leadership have a lifetime commitment to a strong vision of substantive justice, but some percentage (whether 10% or 40% or 70%) of the direct delivery organizations do not. PFEJ, and the new NLADA Section on Advocacy and Support, may be perceived as offering simply the latest national leadership iteration of the substantive justice

mission to a persistent mass of direct delivery organizations that are committed to direct service work at the base of the community of advocates. "Training" is a tool that can be employed, on both sides of this persistent debate, as a persuasive instrument for altering value judgments of uncertain participants in the legal assistance system. If the strategic judgments call for bottom-up initiatives, can the strategies be based on a substantive justice vision?

Just as individual program culture persists, through people who stay and through tendencies based in the local bar, the community, and the local board, so the local nature of legal services will also persist. Efforts to plan and lead change from a national level are like waves on the ocean C the water actually doesn't go anywhere, it just rises and falls again as the wave passes. A possibly positive aspect of this version of Newton's Third Law is that the social transformation mission of the 1960s persists in the programs created then; it is embedded in the hearts of workers and in the mentoring and mission-setting they transmit.

K. The Delicate Question of Capacity to Learn

The people who work in legal services are, in a real sense, the most basic component of the learning infrastructure. What do they want to learn, how are they motivated to learn, to what do they aspire, what are their values and how hard do they want to work? Perhaps most basic of all, what are the limits to their ability to grow as advocates?

Legal services programs appear to hire advocates with a wide variety of educational and work experiences, but no one has paid systematic attention to their basic capabilities. Do we need to think about who gets hired initially and who stays beyond two or three years? Is there a danger of creating a new infrastructure that calls for skills that are beyond the capabilities or interests or commitments of program staff?

We are searching for practical steps to obtain better results for clients rather than engaging in a philosophical inquiry into learning theory in the modern nonprofit organization. But do we nevertheless need to learn more about how people learn in settings like ours? Who is the expert on such learning theory, what is the literature, what can we expect to be taught about what we are studying?

Certainly, the answer to these questions is very complex, and far beyond this paper at this moment. But if we don't ask these questions, in the context of developing a better learning infrastructure, who will?

L. Career Development: From the New Generation to Leadership

Training and learning should address career development as well as enhancement of the skills and knowledge needed for current work in current positions. A "new generation" of potential managers and leaders enters the community of advocates every year. The training infrastructure should ensure that the learning experiences these new people encounter help them to achieve the development they need to realize their potential. A long view is needed if

future learned advocates, effective mentors, managing attorneys, directors of litigation and project directors are to be properly prepared for their roles. Individual learning plans, annual state-level learning plans, and national training events should all be attentive to this long view, even during basic lawyer skill training and new staff orientation. Learning plans should be about the development of each new generation over its whole career, even though there will be a fair amount of turnover along the way.

Specialized training for individuals identified specifically as potential leaders is also believed to be important. Many have asserted that new leaders are held back, to the detriment of the legal services delivery effort, by current leaders who don't want to relinquish their roles. In this area, we have some prior efforts to provide us with guidance. The Management Training Working Group's analysis of training in February 1994 included a leadership section. The NLADA Leadership Project in the 1980s, combining leadership training, "Outward Bound" experiences, and group bonding, helped a number of individuals move into and succeed in positions of greater responsibility.

But there are some unresolved questions about leadership training. Can we actually identify who the potential leaders are? Does training really play a significant role in determining which potential leaders actually become leaders? Is there really a distinct "leader" track, or are there simply managers and advocates who are very effective, and they lead if they can? Are good advocacy and management tracks more significant than a separate "leader" track?

In addition, the essentially local character of direct delivery organizations and their current leadership means that local decisions will play a major role in leadership development. How should leadership development strategies take account of the role of local boards of directors in choosing project directors? Will current program leaders want to help future leaders advance, or will they perceive a threat in a leadership development effort.

Finally, is there actually a special legal services problem of leadership withheld, or is frustration with current leaders and the slow pace of career advancement simply the standard condition in institutions like legal services programs?

M. Needed: A Successful Change Strategy

Finally, in assessing ideas for training innovations in the current world of legal assistance training / learning, it may help to consider the whole advocacy community as an "organization" into which we are trying to introduce change. In this context, we should remember the eight common critical mistakes that John Kotter suggests cause change efforts to fail in organizations:

1. Not establishing a Great Enough Sense of Urgency
2. Not creating a Powerful Enough Guiding Coalition
3. Lacking a Vision
4. Under-Communicating the Vision By a Factor of Ten

5. Not Removing Obstacles to the New Vision
6. Not Systematically Planning For, and Creating, Short-Term Wins
7. Declaring Victory Too Soon
8. Not Anchoring Changes in the System's Culture.¹⁶

¹⁶John P. Kotter, "Leading Change: Why Transformation Efforts Fail", Harvard Business Review (March-April 1995).

APPENDIX 1

Training-Related Content of Selected Collective Bargaining Agreements

The following summarizes the content of a packet containing clauses dealing with training from collective bargaining agreements from MIE's resource library.¹⁷ The clauses are not current and may not represent current collective bargaining agreements. Moreover, we have no way of knowing whether these clauses, even when they were in effect, were actually carried out. Nevertheless, they give some insight into some general patterns. The following areas are dealt with in the clauses:

Training Committees: Quite a few of the agreements call for labor-management training committees. Committee functions vary, with some having explicit and extensive advisory agendas while others are commissioned with little direction. One extensive agenda includes assessing training needs, developing training events, recommending who should attend, evaluating training events, developing or overseeing training materials, developing models of training and supervision that address efficiency and career development, and considering community education, skills development and career mobility. Union members are usually given half of the positions on a training committee. The contract may specify that the union members are given "release time" to prepare for and participate in the committee's activities.

Commitment to Training: Many agreements make firm statements of belief in the value of training, often in the separately stated names of both management and labor. A number of these statements are qualified, however, by caveats which take effect if there are insufficient resources available to pay for training. The caveat seems to trump any meaning to the commitments, particularly in light of the ease with which resource allocations to other priorities can be made. Another caveat is that training not disrupt the provision of services to clients. A number of contracts seem to contain nothing more than vague promises to "do out best in good faith." Some contracts require employees to attend training, some contracts require employers to develop or offer training, and some do both. Several contracts contain specific promises to provide specific amounts of training (e.g., at least one separate skills training event per year for each non-attorney job classification; at least one opportunity per year for training for attorneys and other staff; the Employer will provide or reimburse in full reasonable requests for sufficient training to comply with the continuing legal education

¹⁷ The collective bargaining clauses reviewed are from the following 19 programs: Greater Boston Legal Services (current and prior; clerical and attorneys), LS of Northern California, LAW of Chicago, LAS of Columbus (OH), LA of Metro Denver, El Paso LS, Evergreen LS, Florida Rural LS (attorneys and clericals), Gulf Coast Legal Services (Tampa), LS of Iowa, Legal Aid Foundation of Los Angeles, LAS of Louisville, LS of E. Michigan, Multnomah LS, New Haven Legal Assistance (attorney and clerical), LAS of Northeast NY (Albany), Ohio State LSA, San Francisco NLF, and LA Foundation of North Central Texas.

requirements of the state).

Program Orientation: Both lawyers and nonlawyers are promised orientation to program operations and to the community, often within 30 to 90 days of hire. Some orientation programs, particularly some for clerical workers, provide highly detailed lists of the subjects that will be covered in orientation. Most contracts contain little or no detailed description of the content of any training beyond initial orientation to legal services, office procedures, the community and office equipment.

Content of Substantive and Skills Training for Attorneys: Most contracts are silent on this. One contract promises new, newly promoted or newly transferred casehandlers a general review of the substantive areas handled by the program (including significant recent and pending cases), the courts and agencies in the service area, an in-depth review of the substantive fields to be handled by the casehandler, education about the primary forces and resources in legal services, the community and elsewhere that are relevant to the casehandler's work, the skills necessary to be effective, and, as they are identified, additional training to acquire skills needed to perform the job. One contract spells out a sequence of substantive and skills training for new attorneys, including orientation, court supervision, quarterly seminars and a quartet of traditional LSC-style trainings: BLST, TAST, Fed Lit and Sub Law. Paralegals are to get a similar package, including FAST and Sub Law.

Staff Development: A few of the contracts set out relatively clear agreements to have an annual training plan for each employee, to require the employee to fulfill the terms of the individual training plan, and to create disciplinary consequences for failures in completing the plan successfully. At least a couple of these provisions are fairly demanding on employee development, but I understand from a project director at one such program that the contract provision ends up almost entirely aspirational; it isn't enforceable. One set of contract provisions dealt with supervision, and stated that its goal was to enhance quality and promote the development of professional skills. An individual supervision plan was to be negotiated with each attorney, and laid out significant details about frequency of case meetings, case logs, intensive case review policies, and case opening and closing memoranda requirements. One contract (the same one that laid out a commitment to many specific kinds of casehandler training) also requires an ongoing professional development program to ensure that employees remain well trained with respect to the substantive knowledge, functional skills and program policies necessary to be effective.

Caseload limitation: A couple of contracts contain caseload limitation clauses linked to the amount of training an attorney has had after initial employment or during a probationary period.

Budget: While often not addressed, about half of the provisions create rights to modest resources for training for each employee during each year. The amounts are between \$100 and \$300 per year, and are often subject to a management rights clause allowing budget limits to undercut the commitment. Some contracts require the employee to pay part of the cost of attending outside training events. Budgeted training funds don't seem to carryover to the following year.

Who gets training: A number of provisions deal with allocation of a limited training resources among classes of employees (lawyers, paralegals and secretaries, for example), among employees within a class (based on prior training received, for example), or within the program as a whole. At least one of the provisions was written with explicit reference to regular training offered by the relevant state support and regional training centers, and allocated the “slots” made available by those centers to the program. Some of the contracts make selection of individuals to attend training a management right.

Rotation Among Substantive Units: One training provision created a management right to rotate attorneys among substantive units during the first three years of employment “in order to expose the attorney to the areas of law covered by [the employer], to provide on-the-job training, and to assist in determining the attorney’s ultimate unit placement.”

Notice of Training Events: Addressing a persistent communication problems, a number of contracts contain clauses requiring management to post notices as early as possible and to make sure everyone knows about relevant training events.

Paid Time for Training: A number of contracts specify that time in training is paid time; some contracts give less than hour for hour credit, making some of the training take place on the employees’ time.

APPENDIX 2 TWO CURRICULUM MODELS

1. The Core Curriculum

The National Training Coordinating Council (NTCC) undertook in 1991-92 to develop a “Core Curriculum” -- a basic course of learning, in both skills and substance -- for all legal services employees. NTCC envisioned “a coordinated nationwide system to deliver” that learning, including state support, national support and regional training centers in addition to field programs. At the United Support Conference in Chicago in September 1992, NTCC presented first drafts of lists of possible training topics for various job categories, but proposed that “the hardest part of the core curriculum development” would be deciding which topics would be guaranteed to all relevant employees and which were to be included in a comprehensive curriculum but not guaranteed.

NTCC set forth a curriculum structure, identifying core curricula for five staff groups.

STAFF GROUP	CORE CURRICULA
All Staff	Orientation to Legal Services essentials
Support Staff (intake workers, receptionists, secretaries)	1. Professional Skills 2. Substantive Law Overviews
Case Handlers (attorneys and paralegals)	1. Advocacy Skills 2. Substantive Law
Managers / Supervisors	Professional Skills
Financial / Budget Staff	Technical Skills

As an example of what these Core Curricula included, the Managers/Supervisors “substantive/skills” topics were the following:

- Basic Management Skills (Communication/feedback, conflict resolution, leadership, managing diversity, managing groups, motivation, problem-solving, roles and responsibilities of Legal Services managers, supervision & performance appraisal, time management)
- Communication/feedback
- conflict resolution
- discipline
- leadership
- managing diversity

- managing groups
- motivation and team building
- working with boards (inc. Board training)
- priority-setting and workplaces
- performance appraisals, evaluations, supervision structures and methods
- problem-solving
- program standards
- roles and responsibilities of Legal Services managers
- strategic planning / developing mission statements
- supervision of legal work
- fundraising
- financial management
- time management

In September 1992 there were draft topic lists for the comprehensive curriculum for each staff group except Financial Staff. But, in addition to isolating the “core,” the NTCC design team noted major “content” and “process” issues that had not been worked out.

- **Content Issues:** basic vs. advanced; three possible substantive levels: overview, basic and advanced; annotation of a topic to distinguish overview, basic and advanced content; most appropriate learning methods, such as training or self-instruction; cross-cutting issue complications; cutting edge issue difficulties; coordinating timing of training; appropriate point in employment for training to be undertaken.
- **Process Issues:** how, and with whom, to determine “core” and figure out how to implement the plan; should the effort begin with a test by developing and implementing a sub-curriculum (e.g., attorneys)¹⁸; materials needed and who will develop them with what financial support; what is the most efficient deployment of all the elements of the nationwide delivery system?

The NTCC presentation included draft core curricula for skills training for attorneys with less than five years of experience and for “all staff” with less than one year of experience. For each topic, space was allowed to enter notes regarding the recommended learning method and the resources currently available. Two samples of this material are presented on the next page.

The NTCC concept was never carried through to completion, although further work was done. So far, efforts to find later drafts have failed.

¹⁸Oddly, “attorneys” are not a staff group in the listing of the NTCC.

Skills Topic	Recommended Delivery System		Resources Currently Available	
	Group Instruction	Self-Instruction	Training Packages	Self-Instruction Materials
Attorneys: Foundation Skills (Legal Interviewing, Negotiation, Alternative Dispute Resolution)			! Interviewing, Part I 02032001 ! Negotiation Planning, Vols. 1 & 2 02034001 ! Alternative Dispute Resolution ! Public benefit & Nursing Home hypothetical cases and trainer's notes (LCE Materials) ! Writing Skills for Lawyers 02053005	! From "No" to "Yes" 02069050V ! Interviewing Strategy 02032050V ! Negotiation Strategy Lectures I & II 02034050V
All Staff: Orientation to local program			! Learning Legal Skills - Part 2 (Horowitz and Rasey) 04051010 ! Orientation developed by local program and Board	! Materials developed by local program

The numbers in the table are reference numbers in a catalog of training materials available from the RTCs and first put together at LSC in 1981-82, as the Office of Program Support completed its sets of skills and substantive training materials and video tapes and distributed them to NLADA, Clearinghouse and the Regional Training Centers. The Catalog of training materials, which includes much more than the LSC materials, was subsequently expanded by Judy Rausch and Peggy Maisel from the RTCs. The **National Training Resource Catalogue, 2d Edition**, appeared in June 1987 and may not have been updated after that. It has 143 pages and includes 335 separate items.

2. The Benchmark Institute Curriculum

The Benchmark Institute is a unique California "support" organization. Benchmark was founded in 1989 by Rosemary French, who had been an attorney at LAFLA, a teacher at Loyola Law School in L.A., a staff member of LSC's Office of Program Support in the late 1970s, and director of the Western Center's RTC from 1986-1989. It is incorporated for the purpose of providing training and development services for the public interest legal community. It provides training for a fee and is not "funded" by grants.

Benchmark's curriculum suggests the range of training that a full-service training organization might try to make available:

Substantive Law Workshops (includes manuals or workbooks)

Dissolution, Custody and Visitation Orders
Family Law Overview
Overview of Dissolutions
Housing Law Overview / Eviction Defense
Public Benefits Overview
Welfare Fraud

Legal Skills Multi-Day (Residential) Events (includes manuals or workbooks)

Administrative Representation (7 days)
Complex Litigation (4 days)
Federal Practice (7 days)
Law Student Summer Institute (4 days)
Legal Analysis and Writing (7 days)
Legal Secretary Workshop (4 days)
College of Advocacy (7 days)
Multiple Trial Advocacy (7 days)
Receptionist-Intake Worker Training (4 days)
Senior Legal Secretary Forum (4 days)
Trial Advocacy Skills Training (7 days)

Legal Skills Workshops (build on Residential Events)

Advanced Direct and Cross Examination (1 day)
Legal Writing (2 days)
Evidence Workshop (1 day)
Negotiation (1-2 days)

Organizational Development

Assertiveness Training for Administrators
Dealing with Difficult People
Leadership (4.5 days)
Managing for Commitment
Staff and Board Retreat Facilitation Service
Team Building
Training of Trainers
Using Assessment Centers to Hire the Best People
Board of Director Training
Client Board Member Training
Managing Change
Myers-Briggs Type Indicator Training
Strategic Planning

Total Quality Management
2000 Ways to Get to Yes
Working Partners: Managers and Secretaries

Core Skills Program (a package of training elements leading to mastery)

Legal Skills
Leadership

Diversity

Justice and Diversity:

A Judges Perspective

An Advocate's Perspective

Issues in the Law Firm / Workplace

An Organizations' Perspective

Disability Accommodations for Disabled Students

Diversity in Law School

Managing Diversity

Training Volunteers to Improve Communication and Interviewing Skills
For Clients with Diverse Needs

APPENDIX 3

EXISTING STANDARDS RELATING TO TRAINING: ABA, LSC, PFEJ

1. ABA Standards

The ABA Standards for Providers of Civil Legal Services to the Poor (August 1986) were based upon underlying principles calling for high quality, zealous representation, client participation in the representation and responsiveness to the needs of clients. The Standards were adopted after a seven year process of drafting and review within the legal services and then the ABA environments. The commentaries to the standards expand upon their requirements.

The Standards for Quality Assurance deal directly with the learning infrastructure in a local program. Standard 3.4 calls for a review of the quality of an advocate's work to determine if all pertinent issues have been identified and all remedies explored, to ensure timely and responsive handling of all aspects of a representation and identify areas on which the provider should offer appropriate training and assistance.

Standard 3.5 is entitled "Training." "A Legal Services provider should provide systematic and comprehensive training of staff and private practitioners and other personnel appropriate to their functions and responsibilities."

The ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means (February 1996) build on the general standards, calling on a pro bono program to "provide training opportunities and support services to its volunteers." Standard 3.5-3.

2. LSC Standards and Guidelines

LSC promulgated its "Performance Criteria" in 1995, after an extensive process of discussion and experimentation over about five years working closely with field program leaders.¹⁹ Performance Area Three calls for "Effectiveness of legal representation and other program activities intended to benefit the low-income population in its service area." The first "Criteria" in this performance area deals with legal representation; Criteria 1.b. calls for the program to utilize "systems, approaches, and techniques sufficient to insure the representation is carried out with maximum effectiveness."

The LSC Peer Review Site Manual (1995), with which the Criteria were implemented in on-site visits, lists as indicators that this criteria is being met at the program level such factors as intake systems, case assignment procedures, supervision (citing ABA Standard 3.3),

¹⁹The origins of the criteria date to the Delivery System Task Force of the 1987-88 Futures Planning Process of PAG, NLADA and CLASP.

training and personnel development (citing ABA Standard 3.5), PAI, ongoing evaluation of the effectiveness of legal work and other administrative systems. The training indicators read:

“Training and personnel development, either within the program or utilizing outside resources, to insure that staff receive necessary initial instruction and continue to learn and stay abreast of new legal developments, strategies, and techniques. [Quotes 3.5.]

Outside resources and expertise, including Legal Services state and national support centers, other entities with relevant expertise, private *pro bono* attorneys and firms, and other appropriate parties.”

The Peer Review Site Manual gives reviewers possible areas of inquiry to explore while on site. For the training discussion, these areas are:

“Does the program have a clear policy with regard to training and staff development? Has program provided training for all staff? Does the program provide access to outside training? What process is used in training and orientation of new employees? . . . written orientation materials? . . . staff development plans.

Do staff make use of support centers and other outside resources for litigation support? Do they utilize other outside resources when possible?

LSC’s annual review of proposals for funding, in the competitive grant process begun for 1996 grants, led to the development of Evaluation Guidelines which were used to rate proposals for 1998 funding. These guidelines were issued in April 1998 for use by grant applicants in considering their responses to LSC’s narrative questions. Category III deals with Management and Legal Work Resources. Communication among staff and among program offices, including staff meetings, docket reports, newsletters, office and specialty unit meetings, cross-specialty and cross-unit meetings, access to specialized expertise, research materials and legal updates, and appropriate technological tools (including legal research capabilities). Caseloads are to be appropriate to an advocate’s experience and expertise.

Subsection D deals with staff training:

D. Staff Training.

Applicant describes the methods it uses to determine the training needs of its staff and its plan for providing the needed training.

Indicators:

- (1) The applicant periodically
 - (a) Assesses the training needs of its staff through staff surveys, staff evaluation results, etc.
 - (b) Reviews the available training options
 - (c) Determines the training resources best suited to provide training for the identified needs.

- (2) The applicant's budget reflects an allocation of resources to training that appears to be reasonable given the training plans described.
- (3) Within reasonable budget constraints, the applicant makes available to all staff the necessary substantive and skills training.

The section on Coordination Within the Delivery System emphasizes coordination with other legal services providers and community groups, minimizing inefficient duplication and developing an integrated delivery system. The PAI subsection (IV.B.3) indicators include retaining private lawyers by extensive use of such retention and quality control tools as mentoring, ongoing training, inclusion in substantive law task forces, and provision of other substantive support such as access to specialized research materials.

3. LSC State Planning Requirements

LSC initiated a first round of state planning in 1995, in the face of aggressive attacks in Congress on LSC and the programs it funded. Program Letter 95-1(?) called on each state (LSC and non-LSC together) to develop an integrated delivery system to address client needs despite anticipated restrictions on the activities of LSC grantees.

Now, in 1998, a second round of state planning is under way pursuant to LSC's State Planning Program Letters, 98-1 and 98-6. The plans are due October 1, 1998. Even though LSC provides less than half of the total funding for the community of advocates these days, it seems likely that LSC's attitudes toward training capacity and approach within a state will continue to be relevant even after the plans have been submitted.

Program Letter 98-1, "State Planning," continues to call for progress in developing a "comprehensive, integrated statewide delivery system." A stronger emphasis on possible service area consolidation for improved efficiency has given the 1998 planning process a sharper edge than that of 1995. The consolidation question arises from insistence that planning be done from a "statewide perspective" rather than a local program perspective. A number of the topics have important learning infrastructure components, and one specifically asks about training and access to information and expert assistance. The question areas are:

1. How are intake and delivery of advice and referral services structured within the state?
2. Is there a state legal services technology plan. [Statewide technology training would be a component of such a plan.]
3. What are the major barriers low-income persons face in gaining access to justice in the states?
- 4. Capacities for Training and Access to Information and Expert Assistance. Do program staff and pro bono attorneys throughout the state receive the training and have access to information and expert assistance necessary for the delivery of high quality legal services? How can statewide capacities be developed and strengthened to meet these needs?**
5. What is the current status of PAI?

6. What statewide financial resources are available for legal services to low-income persons within the state?
7. How should legal services programs be configured within the state to maximize the effective and economical delivery of high quality legal services to eligible clients within a comprehensive, integrated delivery system?

Within Question 4, on training, the Program Letter refers to “several states” that have developed new or strengthened existing capacities to provide necessary training, information and expert assistance. Methods include training on substantive law and skills development, practice manuals and poverty law materials, information on poverty law developments and strategies, and co-counseling for less experienced staff and pro bono attorneys. New technologies have helped maximize the effectiveness of these efforts. Planners are asked to assess how a statewide approach can address the needs for these training and related services and to determine the steps necessary to providing these services as effectively and efficiently as possible.

Within Question 7, on consolidation, the assertion is made that “with many programs often suffer from uneconomical and inefficient redundancy of effort, or no effort at all, in technology, training, fundraising, and development of client services Similarly, small programs often lack the resources necessary to develop proper staff supervision or appropriate specialization Each state is asked to “examine what configuration, *from a statewide perspective*, maximizes services and benefits for *clients throughout the state*.” Factors listed for consideration include “the availability of training, expert assistance, and information about legal developments” and “relative costs associated with fiscal and administrative responsibilities”

In July, Program Letter 98-6 reiterated the planning requirements and explained some administrative issues related to the competition under way for FY 99 grants. Oddly, Question 4's heading had a new focus on coordination, having been rephrased as “Coordination of Legal Work, Training, Information and Expert Assistance,” but the specific questions had remained the same (and didn't mention coordination).

This new Program Letter was accompanied by LSC's “State Planning Considerations,” which expanded on the topics the planning was to consider and explained much more clearly the goals of “effective statewide systems” to “maximize the opportunity for *clients throughout the state* to receive timely, effective and appropriate legal services.” For each of the seven questions, LSC now offered “Indicators” which gave examples against which progress within a state could be measured.²⁰ In light of the weight these planning considerations may have in future LSC grant decisions, it's worth summarizing them here at some length.²¹

²⁰The Planning Considerations note, in bold italics, “**The indicators should not be seen as requirements or as the only approaches possible or desirable in a given state.**”

²¹Legal Services Corporation, State Planning Consideration, pp. 10-11 (July 1998).

“Provision of high quality legal services requires a competent and knowledgeable staff. This, in turn, requires on-going training and professional development, resource materials, timely updates about legal developments and strategies, and co-counseling or other expert assistance on complex client matters. Most programs individually lack the resources and capacities to ensure their staff are provided necessary training, information and related professional assistance.²² Further, it is not efficient or effective for each program in a state to separately attempt to address the needs of their staffs in these areas.

Clients are better served and all programs in a state are more effective, economical and efficient, if the staff expertise and other resources of all providers are strategically coordinated to meet the training and professional development needs of staff throughout the state. Effective coordination allows for the identification and use of all available resources, minimizes duplication, facilitates appropriate division of labor, and assures more efficient use of scarce resources.”

The Planning Considerations then set out Indicators for this question, which appear similar to standards for state performance despite the disclaimer noted earlier. As to adequate and appropriate training and opportunities for professional development within the state, LSC calls for:

- On-going and periodic assessment of training needs, including substantive law, legal skills, management and the use of technology.
- On-going assessment of training resources (inside or outside the state), which may include resources within programs or a central statewide organization (e.g., CLE).
- Plans are developed and implemented.

As to coordination of legal work (the new topic in this question) and information sharing:

- Information about legal developments, and about legal strategies and techniques in major substantive areas, is monitored and shared through a central clearinghouse(s), contact point(s) or other means.

²²The impact of this statement probably goes deeper than LSC intends. Nearly a third of all states are funded at little more than the national average funding of an LSC grantee. LSC’s criteria seem to imply that these states cannot, regardless of their state plans, meet those criteria with regard to training. We could ignore this conclusion. Or we could take it seriously (although LSC has not supported its assertion with any analysis at all here, any more than it has offered analysis for any of its other conclusions). Taken seriously, LSC’s criteria call for multi-state training plans for most of the mountain states in the west (ND, SD, MT, WY, ID, NV, UT), for much of the east coast (ME, NH, VT, RI, CT, DE, DC) and, most challenging, for VI, Guam and Micronesia. Or, more radically, they call for multi-state grantees in these areas.

- Electronically, casehandlers communicate and access legal information, brief banks, practice manuals and expertise.
- Development of practice manuals and resource materials is coordinated.
- Regular statewide meetings (teleconferencing is permitted) of advocates discuss common legal issues, approaches and strategies.

In addition, in detailing the Indicators regarding PAI, a major Indicator is “Training and Utilization of Technology Supports Private Bar Involvement Efforts.” Examples include training for PAI attorneys as part of the statewide training agenda, substantive desk manuals, poverty law CLE courses at reduced or waived fees, effective communication to PAI attorneys about training, and electronic communication between PAI attorneys and staff attorneys.

The discussion of the consolidation question also raises training indicators by requiring that “The State Delivery System is Designed and Configured to Maximize Effective Legal Services to Clients Throughout the State” and detailing examples such as a configuration that facilitates providers having the expertise and information, legal work coordination and statewide training capacity necessary to provide high quality services under state and national performance standards.

4. PFEJ’s Comprehensive, Integrated Statewide Delivery System

Recently, the Project for the Future of Equal Justice issued its own Discussion Draft of the essential elements for a comprehensive, integrated statewide delivery system.²³ Based on many prior pieces of work in several states as well as nationally (one of them the Delivery Working Group’s Study of Support, noted earlier), the Discussion Draft begins by agreeing with LSC’s agreement with the Delivery Working Group’s commitment to “a comprehensive and integrated system for the provision of civil legal assistance” in each state. The Discussion Draft calls on all state civil legal assistance leaders “to take responsibility for and provide leadership to ensure effective civil legal assistance throughout the entire state.”²⁴

In its discussion of the capacities of such a statewide system, the Discussion Draft looks to the full range of assistance provided by a community of advocates.²⁵ Within that community, providers are to respond effectively and efficiently to new and emerging legal trends, including Asufficient support exists within the system to identify and respond to emerging legal trends and changes in the nature of the legal problems of low income persons through training, availability of specialized expertise, and other resources.²⁶ Similarly, the use

²³Project for the Future of Equal Justice, Comprehensive, Integrated Statewide System for the Provision of Civil Legal Assistance to Low Income Persons to Secure Equal Justice for All (July 2, 1998).

²⁴Id at 2.

²⁵Id at 11-12.

²⁶Id at 12-13.

of technology should be maximized, including training for use of the technological tools to access information both within and outside their offices, conduct effective legal research, and communicate with colleagues and others and work productively. In addition, on-going staff development is needed to ensure that new leadership is developed and nurtured and that managers and staff improve their skills and capacities to carry out their responsibilities.²⁷

A long discussion concerns the capacity for statewide coordination and support. Among the elements of this capacity are:

- distribution of relevant information regarding legal developments;
- regular statewide meetings to discuss common issues, problems, techniques and strategies;
- state-of-the-art statewide information dissemination network, including statewide email, website(s) with information on legislative, regulatory and policy developments, electronic library of briefs, forms, best practices, etc., coordinated statewide research strategy integrating internet usage, online services, proprietary and other resources, and coordinated case management system;
- “coordinated statewide education and training activities available to all individual and institutional providers within the state to develop expertise in all major areas of legal services practice within a state, to update advocates on new developments and emerging trends in law and policy affecting low income persons, to ensure the use of new strategies, tools, skills and techniques of advocacy, to develop managers and new leaders, and to maximize opportunities for professional staff development for all experienced levels of staff, including:
 - (a) training activities carried out both at the workplace and outside of the workplace for maximum efficiency and effectiveness;
 - (b) assistance to local providers to ensure development of appropriate local training and education activities and materials;
 - (c) coordination with continuing legal education programs offered by state or local bar associations or other entities;
 - (d) opportunities to participate in national and regional training and collaborations where relevant to civil legal assistance activities of the state.²⁸

The Discussion Draft concludes with suggestions about planning and overall management of the delivery system. The core activity is statewide planning on an on-going basis, including the key stakeholders, individual leaders, institutional actors and representatives of low income persons. Within each state, the statewide civil legal assistance system should be managed by a broadly representative entity (or entities) with overall responsibility for creation and maintenance of these capacities. The entity should ensure continuous planning, including planning of the learning infrastructure needs and performance.

²⁷Id at 14.

²⁸Id at 16-17.