

Leaders for Justice

***A National Leadership Development Initiative
for the Legal Aid Community
and the Equal Justice Movement***

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Leaders for Justice

Introduction: The Need for Leadership

America offers the promises of life, liberty and the pursuit of happiness. The realization of these promises is, for most, imperfect at best, but for the poor and disenfranchised, overwhelmingly out of reach. Participating in the American dream often requires access to the system of laws and regulations on which American democracy is based. The law purports to be evenhanded and accessible to the poor as well as to the rich but more often fails to support the freedoms and opportunities offered by American society.

The institution of legal aid seeks to provide access to the law for the poor and marginalized in society – providing a voice to the voiceless, protecting the rights of low-income and disadvantaged people, and reforming laws that are fundamentally unfair to those for whom America's promise is unfulfilled. Without the thousands of lawyers, paralegals, and others throughout our country committed to its actualization, millions of poor people in this country would not be able to obtain their most basic needs, much less achieve small pieces of that American dream. Legal aid is critical to this society's efforts to make good on the American dream and the hope of making fairness and equal justice a reality for all.

Legal Aid and the Equal Justice Movement

Legal aid is a heterogeneous set of individuals and organizations providing free legal services to low-income communities that have no other recourse to the civil justice system. These organizations include local and statewide programs – funded through a variety of public and private sources – that provide direct legal services in a broad range of civil matters, including housing, employment, community economic development, access to health care and education, safety in the home, child support, consumer protection and more. They also include pro bono programs, law school clinic programs, organizations directing their services to special populations, including prisoners, immigrants and children, and state and local organizations focusing primarily on law reform or policy advocacy. In addition, the legal aid community includes various entities that provide research, technical assistance and other support to organizations that directly deliver legal services to clients.

In addition to the above organizations that fall within the ambit of legal aid, there are numerous other public interest organizations that make up a broader equal justice community. Some of these organizations collaborate frequently with legal aid while others advocate separately on behalf of the same communities. These organizations include, but are not limited to, civil rights organizations, ACLU chapters, immigrant advocacy organizations, women's and children's rights organizations, environmental justice groups and a broad range of policy organizations operating at the national and state levels. Finally, there are individual and collective supporters in the private bar, the judiciary, academic institutions and funding institutions that are part of the equal justice movement. These supporters are critical partners in the quest to make the promise of justice a reality in America.

Why Leadership Now?

Leadership, at its core, is about challenging the status quo and pioneering change. It requires honesty and self-awareness to acknowledge when and how things must change to realize a vision. Most importantly, leadership calls for courage to imagine a better future and to embrace change to translate dreams into reality. For this to happen, leaders must possess the willingness and skills necessary to **inspire, enlist, organize and mobilize others** by communicating strategically and persuasively, and by acting decisively to advance the mission, values and societal benefits of equal justice in America.

Since the inception of the legal aid movement in the 20th century, advocates have been called into this work out of a vision for a just society. Many legal aid lawyers have devoted their entire careers to serving the legal needs of low-income people and communities. Despite these passionate efforts, studies since the 1980s have held steady in their findings that the legal needs of only approximately 20% of low and moderate-income people are met in this country. Increasingly, legal aid leaders are acknowledging that this is entirely unacceptable in a country that claims to be built on the promise of equal justice.

Over 30 million Americans live in poverty.¹ Support systems for individuals and families at the bottom of the economic ladder in the United States—in food, housing, health care, education, employment, safety and transportation—are often sketchy or dysfunctional for poor communities. Access to civil legal services has been fragmented and underfunded and under siege for over thirty years by political forces seeking to eliminate federal government and other sources of funding.

The vision of equal access to justice can, under these kinds of pressures, shrivel to something small and self-protective. But the challenges facing legal aid can equally well provoke a different response. A challenge can be invigorating. It can fuel a more deep-seated belief in the crucial importance of legal aid to American society. It can stimulate excitement over the rich possibilities for setting the directions of civil justice for the poor in this country. It can occasion renewal of a passion for justice and expansion of our vision of fairness for all Americans regardless of their means. If we accept the premise that equal access to justice can appear in many different manifestations, responsive to many different poor communities in American society, the key question then becomes, “How does the legal aid movement produce justice for all?” How will legal aid address the powerful array of forces and challenges that threaten to diminish the vision of equal access to justice?

Finding the courage to embrace change to imagine a better future is invariably a function of leadership. The nature of the leadership challenge in legal aid at this moment in its history is not primarily a matter of coping, or managing more effectively, or using proven techniques to solve well-understood problems, important as these may be.² The challenge is “adaptive” in this sense: legal aid organizations are embarking on the path of transformation and need support to identify and pursue new and challenging directions. We need to develop new strategies to yield new results for a new century.

Fortunately, equal justice leaders are beginning to view the legal aid community, in partnership with key allies, as a pivotal resource that can and must do a much better job of fulfilling the promise of justice in America. Increasingly, leaders are facing the reality that the

challenges and choices facing legal aid are daunting and cannot be addressed by maintaining a status quo approach. Out of this environment, leadership development has risen high on the agenda of several national organizations in the legal aid community and the broader equal justice movement, as well as at the grass roots level. And our most effective leaders are pioneering the territory of transformation on multiple fronts: through delivery innovations to meet rapidly changing client needs; through new partnerships and collaborations with likely and unlikely allies; through realignment of vision and mission with the articulated goals of the communities we serve; and by developing comprehensive campaigns to increase funding and public support to build a justice system that realizes the vision of “justice for all.”

Background

This report is inspired and informed by discussions generated at a meeting of the *Leaders for Justice Advisory Council* convened by the National Legal Aid and Defender Association (NLADA) on May 5th and 6th, 2002 in Washington, D.C. The purpose of the Council was to bring together a cross-section of the broad equal justice community to recommend to NLADA and other national organizations the goals, approach, design and structure of a leadership development initiative for the legal aid community. The Council included representatives from key national legal aid groups, as well as leaders from the private bar, the judiciary, law schools, bar associations, national and state level policy organizations, civil rights groups, state and local legal aid organizations, and community-based public defender offices. Nearly 40 individuals – diverse in age, gender, race, ethnicity, sexual orientation, type of organization and position within the organization – attended the two-day Council meeting. The meeting planners intentionally sought to include new voices that are not commonly heard at national legal aid meetings. These voices included leaders from civil rights organizations, young staff attorneys in legal aid offices, and rising young leaders in the private bar.

Michael Kelly, Senior Fellow at the Center for Applied Research in Philadelphia, facilitated the Council meeting. Lillian Moy, Ellen Hemley, Cait Clarke, Camille Holmes and Bonnie Allen worked with Kelly on meeting design. Kelly was the principal drafter of this report, with substantive input and editing assistance from Allen and Holmes.

The *Leaders for Justice Advisory Council* meeting emerged out of a series of other events and efforts in the legal aid community during the past several years. Within its board governance structure, NLADA has created a Civil Policy Group Committee on Diversity and Leadership. In 2001, NLADA and the Legal Services Corporation (LSC) co-sponsored a series of structured “diversity conversations” for legal aid advocates and clients. The need for new and diverse leadership to address the complex and changing needs of increasingly diverse clients and communities emerged out of these conversations.

Subsequently, the Project for the Future of Equal Justice, a joint initiative of NLADA and the Center for Law and Social Policy (CLASP), funded by the Open Society Institute, brought together a group of national leaders in October 2001 to discuss priorities in the legal aid community. The meeting highlighted, among other issues, the importance of developing leadership capacity in the legal aid community focused on the achievement of *justice for all* in America. The meeting also planted the seeds for potential collaborations among national

organizations on this issue. In its current grant year, the Project has committed to promoting leadership development in all of its work, which includes resource development in low-funded states, increasing public awareness, and strengthening connections among legal aid, civil rights, racial justice and community-based organizations.

With support from the Open Society Institute, the Defender Division of NLADA created a National Defender Leadership Institute (NDLI) last year. The institute has developed a leadership website and is conducting a series of innovative training events for the defender community in 2002-2003, including *New Leadership* and *Nuts and Bolts of Leadership*. NLADA and the Project for the Future of Equal Justice have designed joint defender-legal aid leadership training sessions for the 2002 NLADA Annual Conference this month.

Other national organizations have recognized the leadership challenge as well. Equal Justice Works, formerly the National Association of Public Interest Law, is using a Ford Foundation planning grant to develop a leadership initiative for fellows embarking on public interest law careers. In June 2002, Equal Justice Works convened an Advisory Committee to explore strategies for building leadership skills and networks among new public interest lawyers. The American Bar Association (ABA) uses the annual Equal Justice Conference and other gatherings of bar executives and volunteer leaders as platforms to highlight the need for and examples of strong leadership in the equal justice movement. The Management Information Exchange (MIE) has incorporated aspects of leadership development curricula into its New Executive Director training and middle manager trainings, and uses its highly regarded publication, the *MIE Journal*, to promote strong management and leadership practices. LSC is developing a diversity initiative and board leadership trainings for its grantees.

Despite these activities, there has been no concerted effort to date to develop a comprehensive national leadership initiative for the legal aid community. The *Leaders for Justice Advisory Council* began to develop a vision and strategies for this effort, and the structured conversations of the May 2002 meeting form the basis for the analyses and recommendations of this report. It describes the case for conceiving of leadership as a critical and much underdeveloped element in helping legal aid to emerge as a more effective force in our society, with stronger political and financial backing. The report also poses a range of questions and issues that need resolution relating to the creation of an organized leadership development initiative to enable the legal aid community to take charge of its destiny, chart its future and emerge as a more vital and dynamic force in American life.

The Challenges

During the past six years, legal aid—the aggregation of over 700 different organizations and efforts involving some 7000 full time “staff” attorneys and perhaps as many as 150,000 part-time volunteer “pro bono” lawyers nationwide³—has undergone significant, indeed massive change. We should be clear at the outset about the nature of these changes and challenges because the fundamental role of leadership—and the framework for training and preparing leaders—is understanding and addressing legal aid’s threats and opportunities.

The Situation of the Poor

The clients of legal aid are under severe stress. Social and political forces negatively impact the lives of poor people in the US:

- ⌘ During the last few decades of the twentieth century and the early years of the twenty-first, perceptions of the poor have deteriorated:
 - ⌘ The poor are unseen or invisible (poverty is unacknowledged or ignored)
 - ⌘ The poor are scapegoated (poverty is perceived as symptomatic of personal character flaws and lack of initiative)
 - ⌘ The poor are discriminated against (racism and systemic prejudice against women and minorities have become normalized with traditional anti-discrimination advocacy less popular and increasingly less effective through the courts)
 - ⌘ The plight of poor people in our country has ceased to be a focus of major concern and action at the level of the federal government.
- ⌘ Many of the major elements of our economic system that have traditionally provided support and hope for the poor and disenfranchised are in disarray: public education, affordable housing, health care for those who do not have insurance, jobs that provide a living wage. The American economy has shed many of the nation's historic social commitments to provide a safety net to those in need. The economy is tilted against the poor.
- ⌘ The demographic character of low-income people in the U.S. is changing. More low-income people are in the workforce rather than on public assistance. Children and the elderly have high poverty rates. Poor people in the U.S. are increasingly divided into communities in some tension with each other—reinforced by strong racial, ethnic and age profile differences accelerated by recent settlement patterns of new immigrants. Black, Latino, Asian and White communities find themselves competing against one another for incredibly limited resources due to extreme under-investment in their communities and a perceived lack of common economic and other interests often reinforced by employers, developers and other systemic actors. Communities face many obstacles to working together across barriers of language and culture. The pervasive problems of discrimination are often more sophisticated and difficult to address.

The Position of Legal Aid

Legal aid organizations are faced with changed circumstances and conditions that threaten to undermine or transform their missions and organizations.

External threats and challenges

- ⌘ A substantial intervention by the U.S. Congress occurred in the mid-1990's. In addition to a 30 percent reduction in overall federal funding to legal aid through LSC, Congress imposed an array of onerous restrictions on the types of clients that its grantees could represent, as well as the types of legal matters in which they could

engage. The result of Congress' actions was the further Balkanization of a legal aid delivery system that was never coherent to begin with, the closing of numerous regional offices, particularly in rural parts of the country, the reduction of training and substantive support for line advocates, local gaps in service and disparity in quality of services.

- ~~EE~~ A direct consequence of Balkanization is growing disparities in the allocation of resources to legal aid among different states and regions. The actions of Congress hit poor, rural states the hardest. In the poorest states, which continue to rely primarily on LSC funding due to the underdevelopment of alternative sources, legal aid advocates are handicapped in their work by fewer resources and legal tools than they had at their disposal ten years ago. LSC funding in these states has decreased, given inflation, and will decrease even further in some of these states next year on the basis of the 2000 census statistics. In addition, most of the lowest-funded, rural states lack a viable systemic advocacy capacity for policy reform, lobbying and class actions or the capacity to represent some of the most disenfranchised types of clients, which means that advocates are hard-pressed to effectuate long-term solutions for their clients that reduce poverty and racial injustice.
- ~~EE~~ While some states have done relatively better than others in terms of resources, even in the most heavily resourced states, funding remains entirely inadequate to meet client needs. Legal aid advocates and supporters have made remarkable progress in the past ten years in building bipartisan political support for legal aid; nevertheless, the level of political support necessary at the federal and state levels to generate significant increases in funding, i.e. levels that would come close to supporting a "full access" system, is still out of reach.
- ~~EE~~ Recent public opinion research shows that legal aid as an institution is largely invisible to the public. Only 13% of the public can identify a legal aid organization in their community.
- ~~EE~~ Substantive poverty law practice has changed as a result of other congressional action, including the new welfare law and forms of "devolution" of federal authority to states. In addition, legal aid advocates and their allies in the civil rights, racial justice and immigration advocacy communities face increasingly limited access to federal courts. Many legal aid programs and other anti-poverty and racial justice organizations have been unable to respond creatively to these changes, remaining largely entrenched in traditional advocacy strategies.
- ~~EE~~ Communities of new immigrants have emerged in most states—people who know little about our system of law, face a broad array of restrictions based on their immigrant status, and often face cultural and language barriers. These developments pose new forms of complexity in
 - ?? the quality of services for clients from new immigrant communities,
 - ?? the recruitment, training, and recognition of lawyers who can best serve both new and traditional legal aid constituencies,
 - ?? and challenges relating to cultural competency within legal aid programs to respond effectively to immigrant clients.

~~///~~ Private bar allies in the equal justice movement face formidable challenges. Rising billable hours and business development expectations have taken their toll on the quality and balance of lawyers' lives. The mounting pressures of the practice of law have compromised pro bono work and community service – once integral aspects of professionalism for many lawyers. Recent statistics indicate that as many of the nation's largest law firms' billable hours have risen, their pro bono hours have declined. While young lawyers often come into the profession with a passion for public service, their capacity to act on that passion is severely compromised by the mounting demands of the practice.

Internal threats and challenges

~~///~~ As a result of LSC's state planning initiatives, major consolidation since 1995 in the number of LSC-funded programs has resulted in close to a 50 percent reduction in the number of LSC-grantee programs.⁴ In more than half the states now, there is a single, statewide recipient of LSC funds. Mergers and consolidations have led to positive results in some instances; nevertheless, the decline of community-based legal aid offices has presented new challenges to client access. In addition, the reduction in the number of grantee programs has translated into fewer management opportunities for younger lawyers and lawyers of color. Reconfiguration and consolidation has exacerbated an already significant problem in the legal aid community: the glaring lack of diverse leadership among advocates in a system that serves an increasingly diverse client population.

~~///~~ Probably no more than 10 percent of the legal needs of poor people in the U.S. are met by legal aid, and only approximately 20% of the legal needs of low and moderate-income people are met at all.⁵ Expanding this percentage in responsible ways—changing the manner in which legal aid organizations function internally and how they partner with other providers—is a difficult and demanding assignment. An urgent task for the next decade is serious rethinking and redesign of methods of service delivery to maximize resources.

~~///~~ Recruitment, turnover, personnel retention and succession issues affect programs at all levels:

- Significant problems attracting and retaining the most able young lawyers in full-staff legal-aid programs (owing to limited budgets and availability of positions, burnout, bureaucratic management practices, lack of mentoring, low salaries, little or no retirement incentives, insufficient opportunities to explore impact work, heavy law school debt and better opportunities for professional development elsewhere in the law).
- Generational change (graying) in managerial ranks of many programs, particularly those created in the 1960's.

~~///~~ Collaboration with other organizations in the equal-justice movement to address the complex needs of client communities, including civil rights organizations, substantively focused national and state advocacy organizations and community-based organizations is uneven and infrequent in many states and local communities.

- ⌘ The ongoing attacks on legal aid, although never successful in destroying the movement, have resulted in many legal aid programs growing more conservative in their work, more interested in security and continuity, and less willing to take on unpopular issues or commit themselves to complex and challenging strategies that will serve the ultimate goal of justice for all.
- ⌘ Across all the varied structures, missions and internal processes of legal aid programs, there are few agreed upon models for the evaluation of any given program within its particular structure. While the legal aid community is beginning to discuss evaluation standards, no consensus about evaluation systems has been established to date.
- ⌘ The range of legal aid program priorities and approaches is extraordinarily broad. Some programs—typically but not exclusively LSC-funded entities— emphasize individual legal services for poor people without reference to any targeted or focused objective beyond immediate client needs. Some programs emphasize selected “law reform” activities, often in relation to advocacy groups addressing health care, education, racial injustice or some other focus on institutions and systems that negatively affect the poor. Many if not most programs combine elements of both. The mix of programs, levels of financial support, degrees of cooperation and collaboration between programs, relationships between volunteers from the bar and programs with permanent staff are increasingly a function of the cultures of the bar, local government, and legal aid programs in the various states and jurisdictions. How a program designates its emphasis or mission, develops a strategy for finding and serving its clients and becomes accountable for its overall strategy and activity are fundamental questions about the legitimacy of any program’s choice of direction. Virtually all programs have boards of directors with formal governance authority. The processes, however, by which the board is composed and solicits and formulates community engagement in determination of program goals, priorities and intake procedures regularly poses profound practical issues of defining the meaning, at the program level, of “access to justice.”

Opportunities

- ⌘ Many legal aid leaders are moving beyond a tendency toward insularity and a “siege mentality” to take affirmative steps to expand their circles of supporters and donors. Total funding for legal aid nationally grew from \$400 million in 1990 to approximately \$800 million in 2001 as a result of IOLTA (Interest on Lawyers Trust Accounts) funding, state and local public funding, private bar and corporate campaigns and other sources. This surge in funding is the direct result of creative thinking and leadership among legal aid advocates, supporters and allies that have organized broad based, bipartisan campaigns to raise money and political support, particularly at the state and local levels.
- ⌘ Recent public opinion research revealed that nearly 90% percent of the American public supports the principle of free legal assistance for low-income people.⁶ This support is based on the core values of fairness and responsibility to help others in need. Despite the public’s support for the principle of legal aid, the research also shows that legal aid organizations are largely invisible to the public. The Project for

the Future of Equal Justice has developed a national *Campaign for Equal Access: Bringing Justice Home* to increase visibility about the value of and need for legal aid.

- ⌘ Blue-ribbon, bipartisan Access to Justice Commissions and other structures have emerged in a growing number of states. In partnership with legal aid organizations, these entities are developing initiatives to increase funding, political support and visibility, and to develop delivery innovations to expand the reach and impact of the civil justice system. These state level entities are composed of appointed representatives from the bar, the judiciary and provider organizations. Some states have broader commissions where business and labor leaders, educators, state government officials, clergy and representatives of client organizations and community groups are also involved.
- ⌘ The use of technology to enhance program support and communications is proceeding rapidly via targeted funding by LSC and other sources, development of web data standards and resources, internet training and consulting assistance.
- ⌘ Legal aid organizations are coordinating much more closely at the state level to develop state justice communities, with the result of greater efficiencies and stronger collaborations to increase funding and improve delivery.
- ⌘ Some legal aid organizations are beginning to strengthen their alliances with other groups involved in anti-poverty and racial justice work, including civil rights organizations, immigration advocacy organizations, grass roots community groups and a broad range of policy organizations.
- ⌘ A cadre of leaders is beginning to develop tools, standards and measures for assessing program performance and client outcomes.
- ⌘ Many legal aid organizations are developing innovative delivery methods to better serve the changing needs of clients. These methods include interdisciplinary approaches and streamlined intake methods.

Leadership in Legal Aid

What are we to make of this array of challenges and opportunities facing legal aid? What lessons can we draw from the immense range of problems facing poor communities in the context of the promise of justice — *the significant gap between what legal aid is and what it could be?*

What do we mean by leadership? Here we are faced with a disconcerting array of choices. “Leadership” has become the mantra/goal of virtually every form of occupational training in the United States. The proliferation of current leadership books and articles, websites, newsletters, conferences, training and educational programs almost defies the imagination.⁷ If leadership is fundamentally an adaptive art, then we must look to a set of skills that match the difficulty of the challenges and the particular setting of legal aid in America.

The first thing to be said about leadership in legal aid is that it is not confined to a universe of some 700 individual program directors. Developing leaders is not a one-person-per-program enterprise solely focused on the executive director who manages the unit. Leadership is not synonymous with authority.

Nor is leadership equated with using scarce resources or expanding to keep doing more of the same, without developing long-term strategies for impacting client communities in ways that lead to systemic change. Legal aid organizations often respond to the challenges outlined above by marshalling their scarce resources to focus exclusively on direct legal assistance to clients. The combination of dwindling resources (in many parts of the country), primary focus on individual representation and political vulnerability can lead to a downward spiral of fewer resources and higher case volumes leading to greater difficulties providing effective representation for low-income clients and communities. Legal aid leaders must first recognize this vicious cycle and break away from a tendency that can profoundly and negatively diminish the results they are trying to achieve. The hallmark professional obligation of an attorney is zealous, high quality representation of the client. Although direct legal assistance remains the primary arena where legal aid attorneys uphold their clients' rights, it is increasingly clear that many other forums exist where clients' rights are at issue and where equal justice leaders must exercise their skills to protect their clients' causes and promote their long-term social and economic interests.

Today, legal aid leaders are required to be more than good lawyers representing their individual clients. Leaders must be proactive policy advocates at large, understand and effectively carry out their roles as co-managers of the justice system, and effectively marshal relationships and information to build the resources necessary to support a quality delivery system. Leaders must use creative skills to forge new advocacy approaches and problems differently. They must reach out to collaborate with human services providers and community groups, work strategically with the media and launch compelling public education initiatives. Leaders must find new ways to partner with civil rights and racial justice organizations and address those issues as part of their mission. They must stand ready to undertake representation before policymaking bodies, coordinate systemic litigation, and work with key state government institutions, including the judiciary, to ensure that clients have access to critical state level advocacy on legal problems and policies directly affecting them. In sum, today's legal aid leaders must become **community justice leaders** who deploy a broad range of resources and strategies to create impact on the justice system and to generate social and economic progress in low-income communities.

How would we describe ideal characteristics of strong leaders in legal aid?

Leaders like to find, develop and promote a cadre of other leaders because—since they understand the enormity of the challenges in legal aid—they understand deeply how much help they need inside and outside their organization. They let others lead. They are thoughtful mentors who train other change agents to become motivators and conveners. They encourage others to identify opportunities and construct the appropriate platform in the program from which to exercise leadership. They delegate well because they know that letting go of control is the only way to build confidence, experience and leadership in others. They know that fundamental to the task of leadership is training the next generation of leaders in legal aid.

Legal aid leaders are not cut from the same mold. Leaders come in all sizes, shapes, personalities, genders, races and cultures. They occupy positions at all levels of organization. They invariably have an ability to communicate well, but this skill is hard to categorize. They can be:

- Inspiring without (necessarily) being charismatic
- Effective without being commanding
- Visionary without losing touch with facts and practicalities
- Inspiring and motivating without eloquence
- Passionate without aggressiveness
- Committed to change without being domineering
- Undaunted by obstacles without being inflexible
- Persuasive without being controlling

Legal aid leaders are deeply motivated. Sometimes this is characterized as having a clear picture of the future, a sense of the outcome they want. Probably more important is their sense of purpose informed by acknowledgement of the problem(s) they are committed to addressing and driven by a tenacity in devising strategies to deal with them.

Legal aid leaders are excellent listeners if only because they model the behavior they expect of others in the organization. They make sure that there is a safe time and place for people to engage in honest conversation about the organization and its directions. They like to share the limelight with others and empower others. They recognize that managing professionals—whether lawyers or other staff members—requires some degree of shared decision-making that instills a sense of ownership of organizational change. They want change to be engrained within the organization, not be dependent on a few people and dissipate after these people leave. They are skilled coalition builders who go beyond the “usual suspects” and involve clients, community based organizations, other public interest advocates and the “loyal” opposition in devising solutions. However, they also know that when people are hostile to the directions in which the organization is moving so that progress is stymied, it is time to move them out. They understand the positions and interests of various organizational stakeholders.

Finally, legal aid leaders have a self-understanding that supports their risk taking, their ability to cope with their fears and tribulations with courage and endurance. They have a keen sense of strengths and weaknesses, leveraging their strengths and compensating for (creatively using surrogates to make up for) their weaknesses. They have the ability to be optimistic even in pessimistic circumstances; comfortable in a changing environment. They have clarity about their own understanding of, and feelings about, issues of race and class, and a willingness to regularly engage these issues to ensure that these understandings and feelings are aligned with the values of the legal aid, equal justice and client communities.

The Cultivation of Leadership

Thus far we have made the case that:

- ⚡ The situation of legal aid in the United States cries out for leadership—not only at the program director (authoritative) level but throughout legal aid organizations.
- ⚡ There are particular leadership characteristics and skills relevant to the needs of legal aid and its clients.

The questions now become, “How do we attend to the cultivation and development of leadership in legal aid?” “How can this be done?”

A threshold question is whether leadership is a cluster of innate talents and abilities that emerge in the course of a professional career or whether there are methods to train individuals and develop their leadership skills. Can leadership be taught? The answer is yes, but it is a cautious yes. There are literally hundreds of leadership training and development programs now functioning in, or sponsored by, federal and state government, private industry, higher education, philanthropies, local communities and the non-profit sector. Many of these programs are highly sophisticated. They are premised on an understanding of the learning patterns of adults (androgogy) rather than teaching techniques for children (pedagogy). While no doubt legal aid could learn from these programs, there are two fundamental reasons why it would be prudent to be careful about adopting such programs on the assumption that leadership is a generic set of skills transferable to the legal aid experience. First, virtually none of these programs focus on training lawyers and there is some evidence that leadership training for lawyers needs—to put it bluntly—to overcome some of the professional habits instilled in law school and the course of law practice. Second, none of these programs are aimed at preparing people for the particular and formidable challenges facing legal aid leaders.

One relatively new development in professional training in law offers a useful analogy for thinking about training in leadership. The prevailing view about trial practice⁸ until the early 1970s was that a trial lawyer was born, not made—or at least made only through the crucible of learning by experience. The assumption was that the way to develop a strong trial lawyer was to put a young person in the courtroom and see whether he or she could survive and flourish. Then came the development of the National Institute of Trial Advocacy, law school trial skills courses and the host of special trial-practice programs such as NLADA’s trial skills workshops. Today there are well-established techniques for teaching litigation.

Leadership education is perhaps 30 years behind trial and appellate practice education, but it draws on many of the same fundamental concepts. Leadership, like litigation, is a set of performance skills guided, driven and disciplined by a powerful theory of the case or challenge and the particular external and internal forces facing the trial lawyer and his or her client(s). Leadership, like litigation, requires compelling and persuasive communication. Leadership, like litigation, entails a deep understanding of the needs and perceptions of others—ranging from judges, opponents, and funders, to legislators, service providers, the organized bar and the public at large. Leadership education and development for legal aid is likely to draw on most of the teaching and learning techniques that make trial-practice

training most effective. It taps into the skills of successful practitioners who are willing to help others improve their leadership and managerial skills. It emphasizes practical exercises:

- ⌘ Doing something rather than only hearing about it in a lecture.
- ⌘ Teaching through the example of another leader working through real problems.
- ⌘ Immediate critical feedback through coaching rather than some form of examination.
- ⌘ Tools connected to the immediate challenges of the job rather than formulas for success in the abstract.
- ⌘ Emphasis on techniques of reflection that stimulate the development of self-critical skills and self-awareness.
- ⌘ Creation of a community of practitioners seeking ways to help each other.

There are, however, profound differences between trial practice and leadership. Persuasion skills training in law focuses on winning in the context of litigation. Leadership is more often a function of persuasion skills designed to bring people together, to align personal and organizational goals. Litigation is neutral about the ends being sought: the purpose of trial-practice training is to enhance the ability of the advocate to manipulate the conventions of judge or jury decision-making to achieve a result favorable to the client. Leadership training for legal aid is not neutral in this same sense. Leadership development is far more than skills training. Leadership always carries with it the implicit question, leadership for what? Skills are germane to leadership, but the sole question of leadership—the test of its relevance and success—is whether it addresses the fundamental challenges facing legal aid that need resolution if legal aid is to provide effective advocacy for low-income and disenfranchised individuals and communities on the local, regional, and national levels.

There were strong sentiments among the Advisory Council members that all aspects of the leadership initiative should be informed by and imbued with the core value of transformation. The goal of the initiative is more than developing leadership skills as a part of effective management. The goal is to instill a new consciousness within the field about the importance, challenges and skills needed for advocates to work with low-income communities to bring about systemic change. This change will involve both expanding low-income clients' access to the civil justice system to resolve individual legal problems, and using the law to remove structural barriers to overcome economic and racial injustice.

A National Leadership Initiative for Legal Aid

The consensus of the May 2002 *Leaders for Justice Advisory Council* was that:

- ⌘ Leadership is critical to the future of legal aid.
- ⌘ Leadership skills can be developed, enhanced and sustained through structured interactions and training.

- ⌘ Some form of collaborative initiative should be undertaken by NLADA, CLASP and other national organizations committed to the effort, including Equal Justice Works, the ABA, LSC, and MIE.

Looming large in the deliberations of the Council was the question, “How do we accomplish this?” The Council discussed alternative ways of undertaking and sustaining a collaborative leadership effort. While there was some resistance to the idea of creating a formal Leadership Institute, most of the members of the Council favored that idea. At a minimum, the consensus of the Council was to create some vehicle and infrastructure for taking leadership to the next level – beyond existing training events. The precise organization of an institute or initiative, its governance, structure and activities, as well as the broader framework of the initiative will be designed by an implementation committee to be convened by NLADA and would include interested collaborators and others with expertise to assist in the formation of an institute or some other entity. What follows summarizes the Advisory Committee’s conversations about a leadership initiative that would best serve the legal aid community.

What is the Mission?

The mission is to train leaders who will:

- ⌘ Advance, support and accelerate the cause of justice in America.
- ⌘ Affirm, change or clarify the culture of legal aid to enhance core values of:
 - ⌘ Our resolve to provide high-quality services and representation for low-income clients.
 - ⌘ Our respect for our clients and their diverse communities and cultures.
 - ⌘ Our need to collaborate with disparate justice-seeking organizations, including other anti-poverty, anti-discrimination and racial justice entities, to better serve the needs of low-income Americans.
- ⌘ Find, train and empower other leaders to produce a cadre of effective advocates for client-centered social justice.

What Should the National Leadership Initiative Include?

Training

A primary function is to educate leaders in the legal aid community. There was much discussion at the Advisory Council meeting about *who* should be trained and *how* trainees would be selected. While opinions varied, most Council members agreed that initial trainees should be legal aid advocates, including:

- ⌘ Current leaders in the broad range of legal aid programs that deliver legal services to the poor

- ⌘ Emerging leaders (younger talented lawyers in legal aid programs who are delivering legal services to the poor , for whom legal aid must provide more responsibility, and to whom it will turn for significant leadership in the future)
- ⌘ Leaders in national and state advocacy and support organizations that are directly involved in systemic advocacy for low-income people, or that are directly supporting legal aid organizations.

The Advisory Council noted that legal aid allies, partners and supporters should play some role in helping to design the leadership initiative and would most likely participate in some limited capacity as trainers and trainees, even though they may not be the primary target audience. Allied groups could include civil rights organizations and other public interest groups focused on poverty law and racial justice. The Advisory Council also discussed the importance of balancing the need to focus initial training on legal aid advocates and the opportunity to actively model coalition building and collaboration by including some number of advocates from the broader equal justice community in initial trainings but did not reach consensus. The Council acknowledged that target trainee groups could be broadened down the road to include clients, volunteer leaders from the private bar, the judiciary, and representatives from law schools and funding institutions.

The type of training needs to be spelled out in detail by curriculum committees, but in general it tracks elements of the earlier discussion about trial practice training. Leadership education should be:

- ⌘ *Imbued with core values* in the sense that it involves and addresses issues (as they inevitably emerge) of:
 - ⌘ Honest appraisal of the challenges that must be addressed if legal aid is to flourish.
 - ⌘ Legitimate processes to make choices of program priorities.
 - ⌘ Thoughtful and active engagement of diversity, racism and class and cultural prejudices.
 - ⌘ Heterogeneity in approaches to access to justice issues within legal aid.
 - ⌘ The fundamental importance of the work of legal aid in authenticating the substance of American values and demonstrating fairness in our system of justice.
- ⌘ *Active* in the sense that it involves the understanding that legal aid leadership is a performance that addresses the challenges of change and that performance exercises followed by deliberation on the skills of performance are the core elements of the training. For example:
 - ⌘ Negotiation—such as a difficult supervision encounter, a “managing up” experience or meeting with a judicial or organized bar official.
 - ⌘ Reflection—on an actual incident relating to a leadership performance that had mixed results.
 - ⌘ Persuasion—approaching a potential major donor, lobbying a legislator or eliciting foundation support.

- ⌘ Communication—developing persuasive messages and communications skills to communicate strategic intent to a variety of audiences about the mission and outcomes of legal aid, including the media, policy makers, the bar, donors and allied advocacy groups.
- ⌘ Coalition and collaboration building—with client groups, other legal aid programs, other public interest, civil rights and community based organizations, a government agency or a law school.
- ⌘ Coaching and mentoring—of potential future leaders dealing with conflict or opportunities within the organization or with a client.
- ⌘ *Challenging* in the sense that the learning is designed as an intensive, even painful, “transformative” group experience that tests participants’ resources of introspection, emotional maturity and relationships with others.

Networking and Community Building

An important part of an education function is the role of peers in the process who themselves require cultivation, training and development. Since the distinct roles of teacher and student no longer carry much meaning in this form of learning, an integral part of leadership training becomes the development of networks of those who undergo an educational experience as coach, facilitator, participant or advisee.

Community building becomes almost a byproduct of intensive training, networking and virtual or in-person follow-up efforts. The bonding that occurs in a strong leadership-development program, together with the emergence of an “alumni group” that stays in touch, keeps lines of communication and mutual consultation open between training participants. The result can be a new consciousness within the field about the importance, challenges and skills needed for leadership in legal aid. It is this new sense of professionalism focused on issues of leadership and ultimate purpose in legal aid that can effectively cross organizational and geographical boundaries and make a reality of the idea of an equal justice *movement* in the United States.

Other Functions

Although the primary emphasis of a leadership initiative for legal aid is to provide a professional-educational experience that stimulates, produces and enhances leadership skills and capacities in participants, there are a large range of development possibilities once the effort has matured and becomes an established institution in the world of legal aid. It also could (making use of both in person, in writing and web-based efforts):

- ⌘ Train trainers, disseminate “best practices” and leadership tools and provide curriculum materials for a wide variety of local and regional legal aid training.
- ⌘ Sponsor research about and program development for legal aid—a national resource of ideas, innovation and reflection.

- ~~EE~~ Become a clearinghouse or library for information about leadership and a place that connects people with similar or related policy interests.
- ~~EE~~ Sponsor internships and “shadow-other-leaders” experiences.
- ~~EE~~ Provide mentors and technical assistance to interested individuals or groups in the field.
- ~~EE~~ Generate standards, forms of accreditation and certifications of training of use in the field.

What are important characteristics of the effort?

Some desirable operational characteristics include:

- ~~EE~~ *Regional and state-based orientation* in terms of its programming. In view of the scale of effort needed to build leadership strength within some 700 programs nationwide, much of the activity should occur at the regional and state level to:
 - ~~EE~~ build sustained training (multiple days and multiple periodic sessions punctuated by work assignments) at reasonable cost by reducing travel and other costs associated with national programs,
 - ~~EE~~ encourage ongoing coaching of trainees after (and between) training, and
 - ~~EE~~ make follow-up work with program directors easy in efforts to help them create leadership opportunities and work assignment for training participants.

The Council recognized that there is some tension between building an intensive national leadership development effort to train and support a relatively small cadre of outstanding young leaders (in annual “classes” perhaps) - that would involve tracking, monitoring and follow up - and the more disparate efforts of regional forms of support. The Council did not resolve this issue but articulated the importance of finding an appropriate balance. In any event, there was a recognition that enrolling the legal aid and broader equal justice community in a leadership vision will require “ground up” work along with support from the national organizations. National training events, alone, will not have a pervasive impact. Due to budget constraints and other factors, many middle managers and younger advocates do not have the opportunity to attend national training events. Working with state leaders, the national initiative could develop a range of products and services to support regional and state efforts. These efforts could include the replication of existing regional trainings, most notably the leadership development curriculum that has been developed by the New England Training Consortium, in other parts of the country.

The initiative also could include a pilot states project, whereby it could partner with several states to develop replicable models for creating a statewide vision and implementation strategy to support leadership development as a critical component of building a state justice community. In addition to regional training events, statewide leadership development strategies could include networking opportunities, mentoring, coaching and individual professional development planning for emerging young leaders. Finally, the initiative could work with pilot states to expand training and networking opportunities to more actively include emerging equal justice leaders in the civil rights, racial justice and broader public

interest community as well as the private sector. This could include events where young leaders in the private sector and broader public interest sector participate with young leaders in legal aid organizations to develop leadership skills and a shared vision about the future of equal justice in the state. These activities could go a long way to build relationships among the next generation of equal justice leaders.

- ⌘ *Technologically advanced.* While the basic design of the national program focuses on in-person experiences and relationships premised on intense interactions of coaching, mentoring, modeling persuasive communication and the like, follow-up efforts and networking among participants can be enhanced by effective use of information technology. Furthermore, regional programs are likely to rely heavily on lower-cost “distance learning” methods that strengthen or reinforce person-to-person educational settings.
- ⌘ *Staffed adequately by full-time people.* Volunteers are most effective when they either set policy (e.g., through an advisory committee or curriculum design committee) or work within a well-managed structure (e.g., as facilitators, coaches one-on-one or in small groups). To have any credibility as a serious, sustainable effort, the initiative needs adequate staff to manage operations, develop curriculum and raise and sustain funding.
- ⌘ *Structured from the outset to evaluate impact.* It is critical to determine whether programs being offered are useful/inspiring/directly relevant to participants and if the training actually has an effect on the success of participants’ offices or agencies and their work for clients. A critical assessment of the work is the primary way to improve the education offered—and to convince funding sources that a leadership initiative represents a real investment opportunity in the future of legal aid. A number of different evaluation methods should be explored and put into effect:
 - ⌘ Tracking demand for programs is a useful assessment of the “market” for leadership programs.
 - ⌘ Translation from leadership education to on-the-job performance can be encouraged by providing incentives for participants to come to offerings in pairs or groups. Two or more people from the same organization or state program are more likely to consult with each other and support each other’s leadership efforts.
 - ⌘ Emphasis on the continuing nature of leadership development occurs through follow-up communication with participants via telephone, e-mail or a listserv that permits consultation about efforts to use leadership “tools,” implementation of plans developed at programs and sharing of information, ideas and advice. Apart from providing feedback and coaching, continuing supportive resources to participants may be indispensable to the design of strong alumni programs and improved curricular design of future programs. “Supportive resources” can include recently published materials on leadership and management, document exchanges, evaluation materials, outcome measures, budget analyses, case studies, research projects, media and fundraising campaigns, and public-policy initiatives.
- ⌘ *Building evaluation into the training offered by:*
 - ⌘ Short evaluative essays on the strengths and weaknesses of the program requested of participants at the close of training.

- ≈ Presentations and small-group work on cases involving evaluation measures: their uses, possibilities, dangers and pitfalls.
- ≈ Structuring applications to programs that include information about the participant's home program in order to establish a "baseline" in terms of measures participants are asked to track during his or her leadership career.
- ≈ Emphasis on the ongoing responsibility of the participants in programs, as members of the legal aid community, on keeping in touch with colleagues and providing relevant information about the progress of their local agency or program, their leadership development and the usefulness of learning tools and educational settings.
- ≈ Development of measures that can, under certain conditions, be useful indicators for tracking over time leadership performance or program effectiveness at various types of legal aid programs, e.g.:
 - ≈ Collaborative efforts with justice-oriented organizational clients
 - ≈ General counsel arrangements with strong community-based nonprofits that serve low-income communities
 - ≈ Numbers of volunteer lawyers, the cases they handle and their performance
 - ≈ Clients served through advice, settlements achieved, cases tried and other indicators relevant to the mission and goals of a legal aid program
 - ≈ Indicators of the overall health of communities served by a program
 - ≈ Opinions of the value and quality of legal aid captured via surveys of judges, clients, the bar, other service providers and the public
 - ≈ Assessment of internal and external diversity goals captured by community and program-based evaluations
 - ≈ Recruitment, retention and turnover data on lawyers, staff and volunteers

How do we start? What are next moves?

Who will carry this idea to fruition? A steering committee charged with the responsibility for a detailed design and implementation of a leadership initiative or an institute is essential if any momentum is to be established for the creation of an effort or an entity to make it happen. NLADA has taken responsibility for staffing and developing the leadership initiative design and implementation process. A commitment to a collaborative design effort that includes a diverse range of participants is itself a critical first step that reveals the quality of NLADA's leadership of the effort. Some critical design elements of next steps:

- ≈ The design and implementation group selected by NLADA (in consultation with other groups) needs to reflect diversity within the larger legal aid community in terms of race and culture, gender, age, geography, type of legal aid organization as well as people with experience in leadership development and with potential collaborative institutions.

☞ National organizations active in legal aid other than NLADA (e.g., Equal Justice Works, MIE, the ABA, CLASP and LSC) need to participate in the design and implementation of any initiative commensurate with their interest and commitment to be a part of the enterprise. Consideration also should be given to including several representatives from national organizations in the broader public interest community to ensure that the legal aid leadership initiative is not too insular. Working together, and in partnership with leaders from the state and local levels, national organizations can leverage and maximize their resources to imbue leadership skills in advocates and supporters at all stages of their professional development. By tapping into different constituents and supporters of the various organizations – which have similar missions but different focuses – the leadership initiative will have access to multiple platforms and a broad network of contacts, funding sources and opportunities for impact.

☞ Critical decisions of the design and implementation committee include:

- ☞ More detailed design of elements outlined earlier in this report, such as the mission of a leadership institute or initiative, its functions, targeted customers, its methods of training, etc.
- ☞ The governance of whatever is created, including:
 - ☞ The form of its governing structure (e.g., advisory committee? board of directors?)
 - ☞ Institutional location (part of NLADA? a separately incorporated entity? relationship with the NLADA National Defense Leadership Institute, with regional trainings, MIE management-training programs and Equal Justice Works leadership initiative?)
 - ☞ The composition of its governing/policy-setting group (what representation of the private bar, educators, other public interest organizations, clients? sponsoring organizations?)
 - ☞ The functions of governance (accountability for what and to whom? hiring staff? fundraising? organizational policies? programmatic responsibility?)
- ☞ A proposed three-year budget for a leadership institute or initiative.
- ☞ Funding possibilities and combinations of strategies realistically calculated to sustain the projected budget, such as:
 - ☞ Fees from participants or their organizations
 - ☞ Organizational or individual membership dues
 - ☞ Grants from foundations
 - ☞ LSC or other governmental agency support
 - ☞ Affiliation with a university that provides tangible support
 - ☞ Corporate or law firm sponsorships
 - ☞ Matching fees, sponsorships or scholarships from private law firms
 - ☞ Special events

- ✍ Donor campaigns
- ✍ Sale of materials
- ✍ Endowment fundraising
- ✍ Developmental, staging or priority-setting issues:
 - ✍✍ Focus on initial programs that are small, and establish very high standards?
 - ✍✍ How to balance small, concentrated, intensive training programs against the need for broader, more diffuse regional programs?
 - ✍✍ Work first to recruit a number of legal aid programs willing to invest in leadership development and build program(s) to meet their needs, i.e. pilot efforts that also establish the precedent this training should be built into local program budgets?
 - ✍ Attend primarily to training the trainers, i.e., building out from a small core group to a large cadre of volunteers?
 - ✍ Develop broad-based programs that can be widely used in regional settings?
 - ✍ Establishing a particular “brand” or character for Leadership Initiative programs?

Conclusion

The time is ripe for a major leadership development initiative in legal aid. A broad spectrum of advocates, allies and supporters in the equal justice movement now recognize the urgent need to develop leaders and to use education in leadership as a means of building a stronger legal aid community in the United States with the ultimate goal of achieving full access and equal justice for low-income and disenfranchised individuals and communities. A well-designed and managed leadership development effort for legal aid is likely to yield extraordinary results. An investment of energy and resources to build a national leadership initiative has the potential of stimulating a vast increase in the energy and resources that support and enhance legal aid throughout the country and preparing legal aid leaders to take on exciting new roles within the broader equal justice movement. A leadership initiative offers a means of amplifying the vital mission of legal aid in America, addressing the obstacles that lie in its way and invigorating a community dedicated to the cause of equal justice for all.

NLADA Leaders for Justice Advisory Council
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Endnotes

¹ The precise figure, from the Current Population Survey. Based on 2000 date (not the census data) is 31,054,000. Thanks to Alan Houseman of the Center for Law and Social Policy for providing this information.

² Ronald A. Heifetz and Marty Linsky, *Leadership on the Line: Staying Alive Through the Dangers of Leading*, 2002, pp. 14-15: "The single most common source of leadership failure ... is that people, especially those in positions of authority, treat adaptive challenges like technical problems ... In times of distress, when everyone looks to authorities to provide direction, protection and order, this is an easy diagnostic mistake to make. In the face of adaptive pressures, people don't want questions; they want answers. They don't want to be told that they will have to sustain losses; rather, they want to know how you're going to protect them from the pains of change."

³ These estimates are based on extrapolations from existing data and judgments of Alan Houseman of the Center for Law and Social Policy. There were about 3,727 lawyers working in LSC-funded programs in 2000. The rough estimate for pro bono lawyers is that of Esther Lardent, Executive Director of the Pro Bono Institute.

⁴ The projected reduction is 47 percent (288 to 153) between 1995 and 2003. These figures are taken from John Arango and Gerry Singen, *Suddenly Larger Programs: Some Initial Observations*, unpublished paper reported at the MIE-sponsored roundtable held in Phoenix in April 2001.

⁵ The conventional wisdom is that legal aid handles no more than 20% of the legal needs of the poor. The ABA Legal Needs Study (1992-6) showed that about 22% of legal needs are taken to a lawyer, but that includes all kinds of lawyers and all kinds of issues. The correct figure for legal aid is probably closer to 6% although the advent of legal hotlines may have increased this percentage to some degree. Information from John Arango.

⁶ The Open Society Institute funded Belden Russonello & Stewart to conduct public opinion research to determine the public's attitudes and perceptions about legal aid, and to develop message strategies to raise public awareness and strengthen support. The research included 10 focus groups and a national poll. See *A National Message for Civil Legal Aid*, November 2000.

⁷ There are over 900 leadership programs in American higher education, including several full degree professional schools of leadership. Katherine S. Mangan, "Leading the Way in Leadership," *The Chronicle of Higher Education*, May 31, 2002. The number of corporate and non-profit leadership efforts probably dwarfs those in higher education. "Leadership" entered into the google.com search engine yielded (within .06 seconds) 9,040,000 entries derived from the Internet as of June 18, 2002.

⁸ The next three paragraphs are drawn with slight variation from an NLADA report entitled: "A Passion for Justice, the Report of the NLADA Advisory Committee on Defender Leadership and Management Training," 2001.