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Giving Low-Income Americans Minimum Access to Legal Services

If its fiscal 1979 budget request is fulfilled, the Legal Services Corporation will achieve its minimum access plan—providing at least two lawyers for each ten thousand poor people.

By Thomas Ehrlich

RECENTLY the Legal Services Corporation presented to Congress its request for an appropriation of \$304 million for the fiscal year 1979 to complete its three-year plan to provide minimum access to civil legal assistance for all poor people in the United States.

In fiscal years 1977 and 1978 Congress appropriated most of the funds necessary for the first two years of this plan. It recognized the plan as an essential step in meeting the corporation's statutory mandate to "provide equal access to the system of justice in our nation for individuals who seek redress of grievances." Completion of the plan in 1979 will establish legal assistance programs across the country for the low-income people who desperately need that assistance.

The corporation was established to ensure that those who are otherwise unable to afford legal assistance are provided both access to justice and equal

justice under the law. Legal services lawyers act as civil law enforcement officers to ensure that the laws are carried out on behalf of poor people.

The mandate of the corporation, under the 1974 Legal Services Corporation Act, is to support "high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel."

The act defines an eligible client as "any person financially unable to afford legal assistance." By this provision, Congress recognized that many low-income and even middle-income persons in this country cannot afford the high costs of essential legal care. For poor people, however, a legal problem is all too often an acute crisis in ways that are simply not true for others. An eviction notice may mean no housing at all; a defective car may mean unemployment because of lack of transportation; the denial of social security benefits may mean no food for a family. In view of the overwhelming needs of the poor, Congress first directed the corporation to focus its resources on persons with the greatest economic need.

• A former dean of the Stanford Law School, Thomas Ehrlich is president of the Legal Services Corporation. He was graduated from Harvard College and Harvard Law School. This article is adapted from a statement to a subcommittee of the House Committee on Appropriations.

Structuring the Minimum Access Plan

The board of directors and staff of the corporation, in collaboration with many others in the legal services community, spent the initial months of the corporation's existence in developing goals and objectives

and a plan that would be realistic in light of resources likely to be available in our first years of operations, and realistic in terms of our administrative capabilities. After reviewing many alternatives, the corporation developed the "minimum access plan"—an approach to provide a basic level of resources to all poor communities based on the population below the Office of Management and Budget's poverty threshold. The poverty threshold figures have been used in the official Bureau of Census analyses and thus provide the detailed information necessary to allocate resources among localities.

According to the 1970 census, 29 million Americans live at or below the O.M.B. poverty threshold. In addition, there are approximately 1.5 million poor native Americans and migrant farmworkers excluded from the census count. Although there have been some shifts in population since 1970, these figures still provide a sound basis for the corporation's initial efforts to provide some minimum resources to communities for legal services to the poor.

The corporation then looked at the experience of existing programs and, taking full account of funds available for legal services from other sources, determined that the minimum response consistent with the congressional mandate was to provide resources that would support the equivalent of at least two lawyers per ten thousand poor people.

The cost per attorney was conservatively calculated at \$35,000. This figure is based on the average cost in 1975 to support a legal services attorney in a six-attorney office with necessary staff and facilities. Providing the equivalent of two attorneys for each 10,000 poor people, therefore, requires an average funding of at least \$7 per poor person ($\$35,000 \times 2/10,000$). By dividing a local program's annual corporation grant by \$7 and comparing that number with the poor population of the program's service area, a rough estimate can be made of the number of poor persons with and without minimum access to its service. The goal of minimum access will be achieved in 1979 if the budget request for 1979 of \$304 million is granted.

When the Legal Services Corporation began operations, a limited number of legal services programs were concentrated in large metropolitan areas and in the industrial states. There were no legal services offices at all in many areas. Since then major improvements, of which we are proud, have been made.

In the first full year of our operations, we were able to take important strides in improving the funding of existing programs and in strengthening the most seriously underfunded programs. In 1977 and 1978—for the first time in a decade—legal services were expanded to areas that had been wholly without assistance.

At the end of 1978 more than 20 million poor persons in every state will have a legal assistance program in their area. That is an increase of 12 million

from the end of fiscal year 1976. More than 320 legal services programs in local communities throughout the country will have stable funding at a level ensuring some resources for legal assistance. All existing programs, except eleven of the largest, will be funded at the minimum access level. But most important, 8.33 million persons in all parts of the country now without legal help will have at least minimum resources for legal services.

Major Components of the Budget Request

What are the major components of the L.S.C. budget request?

- \$275.2 million—more than 90 per cent of our \$304 million request—will go to programs that deliver legal services to the poor. These funds provide assistance to clients throughout the country and support vital local efforts to improve the effective delivery of services and the quality of legal representation.

The major share of the increase over fiscal 1978—\$58.3 million—is essential to complete the minimum access plan. Of that amount, \$49.6 million is needed to expand legal assistance into areas of the country where no legal services programs are now operating. The remaining \$8.7 million will bring existing legal services programs to the minimum funding level of \$7 per poor person.

Completion of the minimum access plan is an exciting and challenging prospect. The task is exciting because it means that an opportunity to use the legal system will be provided to millions of poor people who now have none. We have received far more applications for funds than we can meet. The task is challenging because it requires varied and creative efforts to ensure that the legal assistance provided is of the highest possible quality. Through our regional offices, we encourage co-operation among the various groups applying for funds and involvement of the local bar, we provide necessary technical assistance, and we try to ensure that the services of new programs and the expanded services of existing programs meet the particular needs of the local communities.

- \$8.25 million of the requested increase is necessary to respond to congressional concerns expressed last year by both the House and the Senate appropriations committees, including low salaries in existing local programs and extraordinary telephone and travel costs in rural areas.

- \$9.97 million will be used to provide a 5.5 per cent cost of service increase for existing local programs. This amount will offset some of the increased costs of providing service that have resulted from inflation and will be awarded to a local program only after a determination that the program is being managed in a responsible and effective manner.

- \$7 million of the increase is required to adjust for differing costs of delivering service in various parts of the country, to provide funds for special needs (in-

stances when a small amount of additional funds will help a local program solve a particular problem and substantially improve services), and to establish a reserve for emergencies (fires, floods, and the like) that may affect local programs.

- Finally, \$2 million of the increase is needed to allow local programs to engage in joint training and other collaborative efforts that ensure effectiveness and avoid costly duplication, and to fund the work of national support centers in responding to the needs of local programs for specialized help on complex matters.

Support for Legal Services

In addition to funding the work of local programs to improve the quality of their legal representation, the corporation directly undertakes a number of efforts to meet the congressional mandate to provide "high-quality" legal services to the poor.

- \$13.9 million of our budget request and \$6.58 million of the requested increase are devoted to the essential training, support, technical assistance, research, and other efforts of the corporation's Office of Program Support and the Research Institute on Legal Assistance.

The foundation of any quality program is, of course, an experienced and able staff. The Office of Program Support directs major recruitment and training efforts to support this goal.

Large numbers of new law graduates alone do not solve the staffing problems of legal services programs. We want the best new law graduates to choose careers in legal services and to remain when they are experienced. We need to attract more experienced lawyers and those with managerial abilities. We need to be sure that client communities with special needs for bilingual attorneys, for staff familiar with Indian tribal law, and for specialists in particular areas of law are able to meet those needs.

Recruiting Forums Facilitate Placements

The recruitment unit within the corporation assists programs with recruiting forums at which individuals interested in working in legal services and programs with openings can meet at minimal expense. A bimonthly bulletin listing jobs available in legal services is published and distributed to law school placement offices, interested lawyers, bar associations, and other groups. A national data bank will soon be in operation. It will be particularly helpful in matching applicants with positions that require special qualifications.

The corporation supports summer internships for law students to work in local programs. Those programs have found that one of the best ways to recruit good lawyers is for them to work in a legal services office while they are students. The Reginald Heber Smith fellowship program, administered by Howard

University under contract with the corporation, continues to attract talented and dedicated new law graduates to programs.

The Office of Program Support also assures training to lawyers and paralegals in the essential practice skills and in numerous substantive and procedural areas of the law. The focus of training efforts shifts to reflect program needs. Last year, for example, the office developed training on the special problems of rural programs. The current extensive array of training programs will be continued in 1979 and new programs designed as new needs arise. The research institute also holds seminars for experienced staff to review and discuss research on new developments in poverty law.

Using Resources Wisely

A constant theme is the corporation's efforts to assure that the limited resources available are used as effectively as possible. The L.S.C. regulations—and now the 1977 amendments to the act—require programs to set priorities in consultation with their client communities. The professional responsibilities of lawyers preclude them from taking more cases than they can handle in a professional manner. It is essential that the limited resources of programs are used to meet the most important needs of local client communities, as determined by those in the communities. The corporation aids programs, both by small grants and with technical assistance, to set priorities.

The staff of our nine regional offices regularly visit field programs, meet with program staffs, monitor the programs' activities, help to identify problems, and provide technical assistance when needed.

Our comptroller's office has prepared an audit guide and model accounting system for programs. That office reviews audit reports from local programs and assists programs in establishing and maintaining financial control systems. It also conducts accounting seminars for the financial staffs of programs to acquaint them with developments in nonprofit accounting.

Finally, less than 3 per cent of the 1979 budget request is reserved for central management and administration. We have worked hard to keep the staff of the corporation small and to provide every dollar possible for the direct delivery of high quality legal assistance. The funds we request for management and administration are only those that we believe are absolutely essential to ensure that the corporation carries out its responsibilities under the act.

If the Congress approves our budget request for fiscal year 1979, we will complete a vital step for our system of justice. We will establish a firm foundation of legal assistance for poor people across the country, and we will ensure access to the law for millions of Americans who are now denied that vital means for exercising their rights of citizenship. ▲