



A LEGAL SERVICES PROGRAM FOR THE MILLENNIUM — TODAY

*By Joseph A. Dailing, Executive Director
Prairie State Legal Services*



All of us are aware that we live in a fluid and changing environment. It is something that we experience every day in our work life. And legal services has been in this situation for quite some time. Luckily, many legal services programs are great adapters and survivors.

Certainly in my own case, the organization that I run to-

day is very different from what it was twenty-two years ago when it began. It is more complex in its service delivery and in its funding. It is also a lot more interesting to run. For if change is a constant, keeping ahead of the change, anticipating the change or reacting to the change is exciting and challenging. And before I begin to discuss the characteristics of a model legal services program — a legal services program for the millennium, I want to mention two major changes that will impact on legal services programs both as non-profits and as law firms.

As non-profits, the most profound change that we all face is the changing environment in which we operate as non-profits. Over the last ten years, there has been a blurring of the distinctions between for-profit organization and non-profits and the roles that they play. There is also a blurring of the distinctions between what governmental and non-governmental agencies do. For-profit corporations now perform functions once thought to be totally governmental. They run prisons and operate public schools in areas where governmental institutions are perceived to have failed. Non-profits now often have profit making subsidiaries and are competing with for-profit ventures in new ways. The reverse is also true: for-profits are beginning to consider moving into areas previously served only by non-profits. The entrance of law firms into the competitive bidding process of the Legal Services Corporation grant-making process is one illustra-

tion of this trend. Private law firms also now routinely compete with legal services programs for grants on the state level as well, grants that were once considered the exclusive domain of non-profits. In the medical field, it is increasing difficult to distinguish between the non-profit and for-profit hospitals and medical clinics. And this is just the beginning. Similar dramatic changes are pending in the legal profession too.

The practice of law is also undergoing some major transformations, the impact of which can only be imagined. The American Bar Association House of Delegates is considering a controversial proposal which recommends that changes be made in the Rules of Professional Conduct to allow the formation of partnerships or firms with non-lawyers. The proposal also recommends allowing the division of legal fees with non-lawyers. While the proposals, grouped under

The practice of law is also undergoing some major transformations, the impact of which can only be imagined.

the title of multi-disciplinary practice, may not be adopted or they may be referred back to the committee for further study, it is clear that this is only the first wave of future changes. While the proposed rule changes attempt to preserve the core values of the legal profession, the independence of professional judgment, protection of client confidences and the maintenance of loyalty to clients through the avoidance of conflict of interest, they are also attempts to adjust to a changing business environment for lawyers and law firms. Under the proposed rules, for instance, a matrimonial law firm might also have as full partners a clinical psychologist, a marriage counselor or a tax accountant. In legal services, this might mean that in

addition to lawyers, a program might also have social workers or other professionals who may function independently in their own related practices.

Some lawyers would argue that after years of losing areas of practice to accountants and others, it is high time that the profession change its antiquated rules. Others worry that these changes will mean the end of the legal profession as we know it. The truth is probably somewhere in between. How these changes will impact on legal services programs' practice is far from clear. But the bottom line is that we are in a fluid situation.

In this fluid situation, what do you need to have to survive and prosper? What do we need to do to survive and remain as an effective voice for our clients? What are the institutional characteristics that we will need to

The Mission Statement has two purposes. One purpose is to communicate the mission internally to employees and volunteers. But at the same time, a mission statement needs to communicate externally with clients, customers and the general public.

have to survive? I have developed a list of ten characteristics that I think legal services programs need to develop to survive in the coming decades. These are not necessarily original with me but are a composite of ideas suggested by leading commentators on non-profits including Peter Drucker, Frances Hesselbein, formerly head of the Girl Scouts, Peter Senge and others.

Of these ten characteristics, I would suggest that there are two that are absolutely essential to a community leader, model legal services program. They are, one, a strong sense of mission and two, competent and dedicated staff. The other eight are critical but these two are the most important in my view.

What is a "strong sense of mission?" It is very simple. Organizations should know why they exist and what they are trying to accomplish. That is their mission. The Red Cross/Red Crescent, for instance, defines their mission as "To serve the most vulnerable."

Ford Motor Company defines its mission as "Quality is Job One." Saturn is a "different kind of car company." The National Legal Aid and Defender Association once used the slogan, "Justice, It's What We're About" to communicate its mission.

The Mission Statement has two purposes. One purpose is to communicate the mission internally to employees and volunteers. But at the same time, a mission statement needs to communicate externally with clients, customers and the general public. All of us have Mission Statements, often long wordy sentences that some group anguished over to get the exact wording that would communicate our program's mission. How many of you can recall what your mission statement is? Has it communicated a strong sense of mission to your staff and volunteers?

Peter Drucker, the management guru, says that a mission statement should fit on a T-shirt, that it should communicate to outsiders the purpose of the organization and it should serve to motivate staff and volunteers to work hard to achieve the organization's mission.

Let me give you an example from fairly recent history to show how a sense of mission can motivate organizations and staff. In the late 1960s and early 1970s, federally funded legal services programs had an incredibly strong sense of mission. They saw themselves as different from the earlier legal aid programs and they insisted on being called "legal services" not "legal aid." Their mission was to mobilize the poor to take control of their economic and political lives. Legal services programs handled "impact cases" while legal aid programs handled "service cases." Legal services programs sought to change society. Legal aid programs sought to help individual clients. While the mission of these new legal services programs was never fully attained, it did serve to focus energies and concentrate resources in particular areas. These first legal services workers scared a lot of people in power, people who had never been challenged. Some of these people in power began their own crusade to tame legal services programs. They continue today. If you look at the current Legal Services Corporation Act and Regulations, particularly the regulations that forbid grantees from engaging in certain activities, you will see a litany of activities that once defined legal services.

I am not arguing for going back to the mission of these earlier programs or even that their mission was correct or attainable. The point is that they had a real sense of mission and that sense of mission informed and motivated their actions. Further, I would suggest that we do not have that same sense of a shared na-

tional mission today in legal services. What will be the mission of legal services in the new environment of the next century? Will we be able to state our mission in such a way that it will motivate our staff members, attract new recruits to legal services and define to the public our importance and our place in the justice system? To survive, we need to develop that sense of mission. It is still a work in progress.

Equally important to a sense of mission is the recruitment and retention of *dedicated and competent people at all levels* in legal services programs. And as we attract these people with our compelling sense of mission, we need to make sure that we have the capacity to train these people and re-train these people as our mission changes and as new demands are placed upon us. Where will these new recruits come from as we aging legal services leaders retire or move on in the next ten years? We are told that Generation X is different, that they are motivated by different things than we have been. We need to figure out what those motivators are and build them into the culture of our programs.

The third thing that a dynamic legal services programs need is a *vision of the future* in which we will carry out our mission. We already know a lot of demographics. We know that as the baby boomers age, many more people will be eligible for retirement than ever before. We know that right now, the fastest growing segment of the population is people over the age of 85. We know that in the next century, America's population will be more diverse racially and ethnically and less white. How will this impact on our services and on the staff that provides them? Will we have the creativity to involve older, retired but still active individuals as workers in legal services? Will we be able to recruit a diverse work force in all aspects to work in legal services so that our staff will reflect the populations that it serves?

What kinds of legal work will we be doing for the economically disadvantaged? Will we be doing that work as independent non-profits or as a subsidiary of a for-profit corporation? Will we be working in multi-disciplinary practice organizations? If we do not have a vision of the future, we are less likely to be able to shape that future for the benefit of our clients. Do you have a vision of what your program will be like in ten years, the kinds of legal services that the client community will require? What will that client community look like? How will we finance our organizations?

Dynamic legal services programs need to be *rooted in the communities that they serve*. This means that there must not only be a strong connection with the client

communities that they serve, it means that legal services programs must also be seen as an important component of the larger community. Legal services program staff need to be at the table with their clients when decisions impacting on economically disadvantaged people are made. Staff members need to be at the table when bar leaders are discussing how to meet unmet legal needs. And legal services staff members need to become bar and community leaders. While our programs probably cannot deliver all of the legal services that are needed by our clients, our programs must be viewed as organizations that **MUST** be consulted when decisions are made that impact on our clients. Is your program leadership involved in these discussions in your community?

Fifth, dynamic model legal services programs need to be *value-based*. The way that we carry out our business should reflect our values. If we think that individuals and groups are important, we need to reflect that value in the way that we represent clients by involving them in critical decisions about their cases, by advising them about the options that are available, even though some of those options may not be available through a federally funded legal services program. We also need to treat our adversaries in a way that is consistent with our values. If we see everyone as a potential partner to be convinced of the rightness of our position, we will treat them differently than if we view everyone as an

Dynamic legal services programs
need to be *rooted in the communities*
that they serve.

enemy out to destroy us.

How do you find out what your program values? Look at what it rewards. If you want to know if clients are valued in your program, look at your waiting room. Is it attractive and clean or is it cramped, crowded and dirty? Notice how the phone is answered by the receptionist or secretary. Do attorneys and paralegals return client phone calls within a reasonable period of time? And finally, are clients kept waiting unnecessarily for appointments? I think that these observations will tell you more about your program or any legal services program than anything that is written in a brochure.

A *capacity for rigorous self-assessment* is a critical

skill that all model legal services programs need to possess. In the words of Peter Senge, author of *The Fifth Discipline*, our organizations need to be learning organizations. Times change. The needs of clients change. The client community changes. As much as possible, we need to anticipate those changes and quickly respond to them. We need to be willing to discard outmoded practices and ideas. We need to have the capacity to re-train our staff members for new jobs. Any millennial organization will need to be nimble and to be on the cutting edge of change. Where we once assumed that many of our clients would receive welfare indefinitely, although often episodically, we are now adapting to a client population that is making the transition from welfare to work. Is it still reasonable to

We need to be able not only to manage multiple funding sources, we need to be able to adapt quickly as new funding sources appear and as other funding sources disappear. And all of this search for funding needs to be undertaken in the context of the program's mission and values.

assume that we can meet these clients' legal needs during the work day? Are evening hours a more reasonable adjustment to the new lives of these clients? Similar changes will continue to occur in our clients' lives and in the client community. What kind of legal workers do we need in this environment? Do we need more transactional lawyers than litigators? Are we meeting the current needs of our clients? Will we be able to meet their future needs?

And now we have come to funding, a topic near and dear to most of us. The model legal services program will need to have *multiple funding sources*. That should probably come as no surprise to any of you but to some programs, it is still a new truth. There are still programs in this country that are more than 90% LSC-dependent. In addition to multiple funding sources, dynamic legal services programs will also need to have

the capacity to generate some of their own funding. Some programs are already generating funds through fee-for-service arrangements, competing at times with private law firms and other for-profit entities. Many programs already have annual campaigns that raise significant revenue for their programs, either from other lawyers or from corporations and the general public or some combination of these groups. These efforts will need to expand and develop.

Traditional grant writing is likely to be a part of the funding mix for a long time, whether the grantor is governmental or private. As we all know, some of these grants are increasingly paying only for targeted services and have very specific goals. For example, some federal money can be used for domestic violence orders but cannot be used to get divorces for individuals living in violent marriages. We need other sources to fill the gap here.

We need to be able not only to manage multiple funding sources, we need to be able to adapt quickly as new funding sources appear and as other funding sources disappear. And all of this search for funding needs to be undertaken in the context of the program's mission and values.

A strong organization requires *strong leadership*. A strong leader is critical to help the program staff and volunteers define and articulate the program mission within and without the organization. But a strong leader is not enough. Today's legal services programs, as well as tomorrow's legal services programs, require a non-hierarchical structure. The model legal services program needs to disperse leadership throughout the program whether that leader is a secretary, a paralegal or a lawyer.

Let me tell you a story to illustrate this point. Last year, I had to spend some time at the Mayo Clinic in Rochester, Minnesota because of the illness of my father. I was immediately impressed by the totally consistent emphasis on the patient. Everyone, from the people in the cafeteria to the nurses and the doctors, was focused on the patient. An old college roommate of mine is on the medical staff of the hospital and I mentioned this observation to him. He remarked that they spend a great deal of time and money on creating a patient-centered environment, even going so far as to terminate employees who were competent but not patient-centered. After my father's surgery, I decided to test this statement out with a nurse. Again, I remarked to the nurse about my observation of the total patient-centered approach and asked her what she thought. She not only confirmed its importance to all Mayo employees but she also said that if a doctor was

observed treating a patient improperly, a nurse might pull him out into the hall to remind him that his approach was not “the Mayo way.” So at the Mayo Clinic, not only are the mission and values clear to everyone, leadership and responsibility for enforcing the mission and values are felt by people throughout the organization.

A strong leader is able to create an atmosphere in which ownership of organizational goals is widespread and where people feel the autonomy to try new approaches within the context of those goals. At Mayo Clinic, the leaders who established the culture of the

A strong leader is able to create an atmosphere in which ownership of organizational goals is widespread and where people feel the autonomy to try new approaches within the context of those goals.

clinic were the original Mayo brothers who died before World War II but their organizational goals continue in a very changed medical environment.

A fluid organizational structure is critical where people feel empowered, not limited by static job descriptions written for a different era. Nokia, the Finnish mobile telephone manufacturer, has a structure in which key managers swap jobs every few years. One year a person might be in charge of marketing and in a few years, he or she might be in charge of manufacturing. Similarly in legal services, our structure needs to accommodate for changed circumstances and allow people to move easily into new areas of responsibility.

In older management terminology, a part of this concept was included in the term “delegation,” i.e., empowering people to act autonomously in defined areas or projects within specified parameters. Dispersed leadership contains that idea but it also includes the possibility of individuals assuming leadership without the necessary anointing from above, creating an atmosphere in which people are willing to articulate new ideas and new approaches and begin to take steps to implement those ideas. Do people in your legal services program assume responsibility for developing

and testing new ideas? Is the culture of your program open to experimentation and risk taking? Is your leadership dispersed throughout the program?

The last two of my ten characteristics are things that legal services programs have learned, sometimes the hard way, over the past ten years. Dynamic legal services programs need to be *accountable to the public and to funders, both for how money is spent but also for the results that were achieved in spending this money.* Anyone familiar with “outcome based goals” knows this fact. No longer is it sufficient to tell our funders and the public that “we are doing good work.” Funders and the public want to know what the good work has accomplished. How have people’s lives been changed?

A corollary to this is that we must also be tougher on the business side. We can no longer accept grants that pay for less than the full costs of a project. And we must be able to document that the costs are real and that the operation is efficient. To be able to do this, we need to be technologically sophisticated. Computers cannot replace people but they can be used to automate routine work, speed research and make us more efficient. They can also be used to control costs and make accurate financial reporting a possibility.

The tenth and last characteristic of a dynamic legal services program is that it must *collaborate* with other organizations serving our clients. With limited resources and the need to maximize those resources, working with other organizations and sharing resources is critical. Collaboration is also more effective. Clients seldom have isolated legal problems. Other organizations have the expertise in other areas that can be brought to bear in a coordinated way for the benefit of our clients. Luckily, collaborative efforts in legal services are becoming increasingly common.

So these are my ten characteristics that a model legal services program needs to have.

Your program may have all of these characteristics. If it does, you are indeed lucky. Learn ways to improve on those basic characteristics. If your program lacks some of these characteristics, attend the training sessions that will help you diversify your funding base, work collaboratively with other programs, become more effective at reporting what you accomplish to the public and your funders. Most of all, listen to the stories that your colleagues tell. One of the great things about legal services is that there is no shame in stealing a good idea, adapting it to your situation and making it your own. I’ve been doing it for years. So listen, learn and steal ideas. It’s the legal services way.