

Date: November 11, 2002

To: Legal Services Corporation

Re: Comments on State Justice Communities Planning Initiative Evaluation Instrument

As the current chair of the Delaware State Bar Association Standing Committee on the Provision of Legal Services to Low Income People (the "LIP Committee"), I write in response to the request for comments on State Justice Communities Planning Initiative Evaluation Instrument, dated August 9, 2002 (the "Evaluation Instrument"). The views expressed in this letter are not necessarily shared by every member of the LIP Committee. These comments are intended to supplement, rather than restate, the comments made by the NLADA, ABA/SCLAID, the Minnesota program, and the Wisconsin program.

Clearly, someone has put a great deal of time and thought into creating the Evaluation Instrument. It appears to be based on the assumption, however, that in order to coordinate legal services to poor people effectively, a large, formal, state-wide planning organization must exist. The Evaluation Instrument then sets forth a mind-numbingly large array of criteria to be used in evaluating this bureaucracy. I cannot comment as to whether the underlying assumption regarding the necessity of such a formal planning organization is correct for large states. The assumption is clearly erroneous and the Evaluation Instrument unworkable, however, when applied to a small state like Delaware.

Delaware has only three counties and a population of approximately three quarters of a million people. Moreover, you can drive the entire state--the long way--in about ninety minutes. Our bar is correspondingly small, with an active membership of less than three thousand lawyers. We have only one LSC grantee. We do not have and do not need a large, formal statewide planning organization to coordinate the provision of legal services to the poor.

Since its inception in 1995, the LIP Committee has been charged with the responsibility of coordinating the efforts of the providers of legal services to the poor people of Delaware and with promoting generally the provision of legal services to the poor. Our membership includes lawyers from: the private sector, LSC of Delaware, DVLS, CLASI, Family Court, the Office of the Child Advocate, the Public Defender's Office, the Delaware Bar Foundation, the Pro Se Litigation Committee, and other organizations. The membership is flexible; when we learn of another organization that is endeavoring to provide legal services to the poor in Delaware, we invite them to send a representative to the LIP Committee. We conduct our business through monthly lunch time meetings, supplemented with e-mail. Through the LIP Committee members' contacts in their respective communities, we are kept informed of any changing needs for legal services in the state.

Although we have no dedicated staff, budget, or other trappings associated with a large formal bureaucracy, the LIP Committee has been very successful. In past years, the LIP Committee has assisted with: the establishment of Legal Helplink, a coordinated intake hotline for all of the legal services providers; the creation of the Combined Campaign for Justice - a very successful combined fund-raising campaign addressed to the bar, which received the Harrison

Tweed Award; the creation of a reduced fee bankruptcy panel; the establishment of a pro bono recruiting campaign which has included the active participation of the Delaware Supreme Court; the creation of the Attorney in Court program for representation of victims of domestic violence in PFA hearings; and the creation of legal needs matrix or assessment. Moreover, the Pro Se Litigation Committee, with whom we coordinate our activities, has done an enormous amount of work with our courts to create pro se materials, and to establish pro se centers in all three counties in Delaware.

This year we are continuing our pro bono recruitment efforts with the advice and assistance of the Delaware Supreme Court. We are also exploring ways to address the anticipated funding shortfalls in future years due to the drop in IOLTA interest rates and other factors. On this project we expect to meet with the Executive Committee of the Delaware State Bar Association and members of our General Assembly, among others. In short, we believe we have a highly effective, pro-active, responsive, inexpensive, and well respected process for coordinating the provision of legal services to poor people in Delaware. We are spending our resources wisely, without the expense of the type of bureaucracy which appears to be assumed by the Evaluation Instrument.

Frankly, we were overwhelmed when we reviewed the Evaluation Instrument not only by its length and its detailed formalistic requirements, but also by our assessment of the costs required to establish compliance. The Legal Services Corporation provides about twelve percent of the total funding for legal services to poor people in Delaware. Our primary concern is that if this Evaluation Instrument--or anything similar--were applied in Delaware, we would receive very low marks which might adversely affect our grantee's funding in spite of our demonstrated successes in coordinating, encouraging and funding the provision of legal services to poor people. Such a result would be unfair and unfortunate. At a time when we are anticipating drastically reduced funding for legal services, the diversion of any resources from the actual work of representing the poor people in Delaware to administrative expenses incurred solely for the purpose of scoring well on the Evaluation Instrument would be money and time poorly spent. Surely, you want an instrument that evaluates the effectiveness of the delivery of services to poor people, not an instrument that dictates a single bureaucratic form for all states.

We concur with the suggestion, made by several other commentators, that the Evaluation Instrument be abandoned. If LSC believes that it must use a formal evaluation tool, then a simple, flexible -- and inexpensive to apply -- evaluation instrument should be developed. Since we do not believe that the Evaluation Instrument can be transformed into an effective instrument by changing the individual criteria, we have not attempted to respond in detail to each section with which we have a concern. If you would like further input from us, please do not hesitate to contact me.

Sincerely,

Mary M. MaloneyHuss
Chair, Delaware State Bar Association
Standing Committee on the Provision of
Legal Services to Low Income People