

Comments on LSC Proposed State Justice Communities Planning Initiative Evaluation Instrument

Submitted by the Virginia State Planning Assembly

November 11, 2002

Introduction

The Virginia State Planning Assembly consists of representatives of every legal aid field program in Virginia funded by Legal Services Corporation or the Legal Services Corporation of Virginia (LSCV); of LSCV, the not-for-profit distributor of IOLTA and state-appropriated funding for the entire state, itself; of the state support center, Virginia Poverty Law Center; and of the Virginia State Bar. Representatives of other statewide entities including the Virginia Supreme Court, voluntary bar associations, and law schools monitor and are kept informed about the planning assembly's work. The comments that follow on the next five pages were unanimously approved by the planning assembly at a meeting on November 6, 2002.

We appreciate LSC's effort to create a formal, defined and published system for evaluating state planning efforts, and offer the following questions and suggestions to help improve the system. We also commend and formally support the comments submitted by Gerry Singen dated September 27, 2002.

Respectfully submitted,
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Chair, Virginia State Planning Assembly

Overall comments:

Data collected: The proposed evaluation system asks for a great deal of data collection, a great deal of evaluation, and a great deal of reporting on implementation of goals important to LSC, not all of which have been previously published. As suggested by Mr. Singen, the instrument does not but should seek information about the impact, both good and bad, of state planning on clients.

Usefulness of information: Before LSC adopts and implements this instrument, we ask that LSC carefully evaluate whether it will make good use of each piece of information collected, and delete those measures and those forms of data unless good use will be made of them. Creating responses to this instrument will take large amounts of time that would otherwise be used for serving clients and improving the structures that provide those services, so we ask LSC to carefully evaluate the benefit of each hour that will be taken from that work to respond to the instrument.

Weighting: All areas of inquiry and responses appear to carry equal weight, so that “collection of demographic information” carries the same importance and value as “Statewide coordination of litigation and advocacy on behalf of clients” in section 4.A.1. LSC should evaluate whether efforts with disparate impact on client outcomes should receive the same level of importance.

Particular comments:

	Section 1, Part 1: Statewide Planning Structure	
1.1.1	“planning process focuses on the expressed goals of clients”	clarification is needed as to how client goals are collected and measured; which clients, and how are their goals expressed and then collected?
1.1.3	“authority of state level planning fully accepted by programs”	does this imply that LSC will favor only planning bodies that are granted formal authority, i.e. power, by their members? LSC has not previously stated such a preference. A consensual process which grants no formal authority to the planning body, but which is effective in implementing results, seems no less desirable; accomplished substance should be preferable to form, and LSC should not reward more formal bodies simply for the reason that they are more formal
1.1.6	“state planning body has authority to compel involvement of all programs”	ditto 1.1.3
1.1.7	“state planning effort has sufficient and effective staff support”	the meaning of this highest-rated choice, with 5 points, becomes obvious only by reading the 3-point choice “state planning effort has to rely on donated staff...,” but LSC has not previously required echoing our comments on 1.1.3 and 1.1.6, is not substance preferable to form here?
1.1.11	“created by order of supreme court or state statute”	ditto above comments; LSC here expresses a preference which it has not voiced before and again seems to exalt form over substance
1.1	“Overall rating”; “The evaluator may give a high overall score despite the existence of low scores on individual components.”	LSC here gives its evaluators express authority to nullify low ratings on the individual elements listed above, and by implication the authority to nullify high ratings on individual elements; it is not clear how a high rating in this last overall category would overcome the impact of low ratings in the previous 11 specific elements; to the degree such nullification can take place, LSC should question whether nullified elements were therefore important to include, and question

		what message the permitted nullification sends to state planning bodies
1.3	Diversity of state planning structure	As others as commented, some of these categories of diversity are inappropriate subjects on which to pose questions (“diverse sexual preferences”), and are too broad to be useful (“Persons of all ages..., of all races and ethnicities..., of all religions..., of all nationalities..., from all geographic regions within the state...”); evaluating the state planning body’s efforts to consult with organizations representing diverse groups, as in 2.1, is a more effective way to encourage the diversity of opinion which LSC seeks
	Part 3: Produce comprehensive state plan	
3.1.1	“A state plan should address the needs of potentially eligible clients from all of the groups listed in Subpart 2.1 for whom the input obtained during the planning process shows a legal need.”	This section is vulnerable to the same weaknesses that we identified in our comment to 1.3: it seeks information about the legal needs of groups which may be inappropriate or overbroad to consider. Consultation with representatives of diverse groups is more effective here.
3.1.2	“Evaluator will assign a score based upon his or her overall impression of the plan’s provision for ensuring the states conscientiousness in complying with eligibility limitations in program grants...”	This provision seeks to involve the state planning body in usurping the proper responsibilities of duly appointed local boards of directors. This aspect of 3.1.2 should be omitted altogether.
3.2	“Plan addresses full range of expressed client goals”	same comment as for 1.1.1: “clarification is needed as to how client goals are collected and measured; which clients, and how are their goals expressed and then collected?”
3.3.	“...address the expressed needs of clients.”	ditto
3.4	Overall rating: “...expressed client needs.”	ditto
3.6	“Plan coordinates the activities of all providers of legal services to the poor within the state”	The instrument rates the planning body’s success in an element over which it has no control: the willing involvement and cooperation of a variety of providers with a variety of missions. More appropriate would

		evaluation of the planning body’s efforts to reach out to such other providers. I
3.7	“Plan calls for engagement of multiple entities in cooperating to meet client needs.”	Some of the groups envisioned for “engagement,” such as religious groups, schools and the business community, may not be appropriate for involvement because they seek to serve constituencies and interests different from those served by legal services providers. LSC should confine the evaluation of “engagement” to appropriate entities.
	Part 4: Maximum efficiency and effectiveness of resource use	
4.1	“The configuration of LSC-funded programs will maximize access for clients throughout the state”	This section of the instrument seeks to assess the distribution of a vast array of services and resources across a state and relate the effectiveness of that distribution to the configuration of LSC-funded service providers. LSC does not provide any guidance in this instrument, but should, which would allow the evaluators to determine whether the ineffective distribution of a service or resource is due to configuration of LSC programs or due to other factors. Other factors could include effectiveness of program leadership and management, and local conditions such as significant funding provided by a local government for service to its own residents which should not be regarded as available for use elsewhere in the service area.
	Section 2: Implementation of State Justice Communities Plans:	
	Ratings of “Effort,” “Agility,” “Vision/seeing further possibilities”	We question the usefulness of these categories of rating due to their highly subjective nature; the level of rating is likely to be highly dependent on the nature and extent of the evaluator’s own experience, and ratings of the same activities may thus vary significantly between evaluators
	Section 3: Objective Measures of the Success of State Justice Communities	

	Planning	
C.1.	<p>“Geographic equity in resources distribution... Disparity in funding and pro bono services per poor person by county”</p> <p>“States will also gather data on the actual number of hours spent by members of the private bar in providing pro bono services to income eligible persons</p>	<p>Though this section claims to measure “funding” by county, it actually seeks data on spending by county using any of several criteria. References to “funding” are confusing and should be replaced by references to “spending”</p> <p>LSC’s expectation that “states” or programs will be able to gather useful data on pro bono services in rural areas is unrealistic: many pro bono attorneys decline to provide the numbers of hours they have contributed to pro bono cases referred by legal services programs, and other attorneys provide pro bono services by direct application and without referral; our experience is that the latter group will not provide numbers of any sort. Without reasonable indications of accuracy of the data, the data will be useless, and LSC should not require states to collect it.</p>