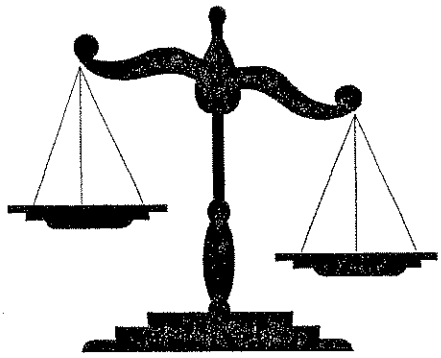
REPORT OF THE

JOINT LEGAL SERVICES ACCESS

AND FUNDING COMMITTEE

December 31, 1995



Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws. (Minnesota Constitution, Art. I, Sec. 8)

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INTRODUCTION

The 1995 session of the Minnesota Legislature directed the Minnesota Supreme Court to:

> [C]reate a joint committee including representatives from the Supreme Court, the Minnesota State Bar Association, and the Minnesota Legal Services Coalition to prepare recommendations for state funding changes or other alternatives to maintain an adequate level of funding and voluntary services that will address the critical civil legal needs of low-income persons as a result of reductions in federal government funding for such programs.

By Order dated September 21, 1995, the Minnesota Supreme Court established the Committee and directed it to:

> [E]xamine the alternatives for addressing the critical civil legal needs of low-income people including systemic changes in the legal and judicial systems and the legal services delivery system to facilitate access...identify[ing] costs and funding options for these alternatives and make recommendations to the Court and the Legislature by December 31, 1995.

The Court appointed 29 members to the Committee representing the Legislature, the federal and state judiciary, lawyers in private and public practice, legal services program staff, and the public.[1] The following 24 Committee members, and Supreme Court liaison Justice Edward Stringer, participated in the Committee's work:

Diane Ahrens	Glenn Dorfman	William Mahlum
Gloria Bostic	Daniel Gislason	Barbara F.L. Penn, Co-chair
Rep. Sherry Broecker	Catharine Haukedahl	Steven Reyelts
Patrick Burns	Jarvis Jones	Hon. James Rosenbaum
Leah Carpenter	Sen. David Knutson	Mary Schneider
Hon. Bruce Christopherson	Charles Krekelberg	Jan Smaby
Sen. Richard Cohen	David Kuduk	Roger Stageberg, Co-Chair
Joseph Dixon	Bricker Lavik	Hon. John Stanoch

At its first meeting on September 29, 1995, the Committee established subcommittees to identify issues and develop recommendations directed toward the court system, legal services programs and the private bar. Each subcommittee also reviewed funding issues and brought suggestions to the entire Committee to address.

The Committee understood its charge to include identifying both short-term and long-term solutions to meet the legal needs of low-income Minnesotans, especially in light of reductions in federal funding. In response to the question of how Minnesota's lawyers, the courts, and the Legislature can work together on this critical issue, the Committee adopted a **partnership approach** and focused on a **five year plan.**

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[1] A complete listing of Committee members is in Appendix A. The Committee wishes to thank the staff of the Minnesota Supreme Court, the Minnesota State Bar Association and the legal services programs who assisted the Committee. The Committee also wishes to thank the Otto Bremer Foundation, which provided funding for the preparation and printing of this report.

I. EXECUTIVE SUMMARY

There exists in Minnesota, as across the nation, a very serious unmet need for civil legal services for low-income persons. Many organizations have documented this need including the American Bar Association, the Minnesota State Bar Association (MSBA), the Minnesota Supreme Court Gender Fairness Task Force, and the Minnesota Supreme Court Race Bias Task Force. Studies have consistently concluded that even the most critical legal needs -- such as those relating to housing, family income, and family violence -- are not adequately met. It is also clear that the work done by legal services programs

•stabilizes families, maintains communities and makes society safer;
•saves the taxpayers money;
•helps to prevent legal problems which would otherwise clog the court system; and
•helps people to become self-sufficient and participate effectively in society.

Federal funding for the national Legal Services Corporation (LSC) for 1996 is almost certain to be cut by 20-30 percent. While Congress had not completed action on the fiscal year 1996 appropriation as of December 31, 1995, it is also clear that Congress will impose numerous restrictions and prohibitions on the legitimate work that providers receiving federal funding can do for their clients. Other federal funding for legal services to senior citizens and persons with disabilities is also being cut approximately ten percent. This means a loss of over $1.7 million for Minnesota's programs. Some other funding sources such as local United Ways are also shrinking. At the same time, many laws affecting low-income Minnesotans are changing dramatically, creating new and additional legal needs.

Over 80 percent of the resources currently available to meet the critical legal needs of low-income Minnesotans come through the staff and volunteer lawyers who work with the six programs that serve all 87 Minnesota counties. The six programs work together as the Minnesota Legal Services Coalition (Coalition). The remainder of the resources come through a variety of other staffed offices and free-standing volunteer attorney programs generally providing additional services in single counties or to special populations. Collectively, Minnesota's legal services programs are considered nationwide as a model for the ways in which they have worked cooperatively with each other, the private bar, funders, the courts, and the Legislature. Unfortunately, additional efficiencies notwithstanding, decreased funding will inevitably result in decreased available services and in a greater unmet need for low-income Minnesotans.

The Committee explored issues facing, and developed recommendations directed toward, the court system, the legal services programs themselves, and the private bar. The Committee also developed recommendations for legislative action.

RECOMMENDATIONS[2]

With respect to the court system, the Committee recommends that:

A. Each judicial district should approve and implement an action plan to help meet the legal needs of low-income Minnesotans consistent with judicial ethical requirements.

B. Courts' efforts to improve services to pro se litigants should address the special needs of low-income users.

C. Trial judges in all courts in Minnesota should be educated about the need for funding for legal services for the disadvantaged, and be encouraged to consider making counsel and litigants aware of the possibility, in appropriate cases, of designating local legal services or volunteer programs, or the Supreme Court's Legal Services Advisory Committee (LSAC), as the recipients of cy pres funds. This is money left over after class action proceeds have been distributed as far as possible.

With respect to the legal services providers, the Committee recommends that:

A. While the Coalition programs and others are already a national model of coordination and cooperation, the programs should continue to search for areas in which they can achieve additional efficiencies and improve client services through increased coordination and cooperation.

B. All civil legal services providers should become familiar with and abide by the ABA's Standards for Providers of Civil Legal Services and, when available, the ABA's Standards for Pro Bono Providers.

C. LSAC and the Lawyer Trust Account Board (LTAB) should explore asking all legal services providers to use a common format for keeping track of and reporting case service statistics to facilitate monitoring and evaluation of the overall delivery of civil legal services to the poor in Minnesota.

D. Each local legal services provider should establish an administrative client fee or fees, which may be voluntary or mandatory at the option of the local program's board, in the suggested amount of at least $10, subject to hardship exceptions, and the programs should report to LSAC with respect to their ideas and experiences with such fees.

E. The legal services delivery system should continue to strive to offer to low-income people a level playing field, access to all forums and a full range of legal services in areas of critical need.

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[2]This report reflects the views of the Joint Legal Services Access and Funding Committee. It does not necessarily reflect the views of the Minnesota Legislature, the Minnesota Supreme Court, the Minnesota State Bar Association, or any other organization or agency that had representation on the Committee.

F. Legal services funding should be structured to ensure that populations with special needs, such as Native Americans, migrant and seasonal farm workers, people with disabilities, and financially distressed family farmers, continue to have access to legal services and that adequate state support services, such as training, community legal education materials and mechanisms for information sharing, continue to be available to all legal services providers, including volunteer attorney programs.

With respect to the private bar, the Committee recommends that:

A. The organized bar and local legal services providers should encourage all lawyers to meet their obligation under revised Rule 6.1 to donate 50 hours of legal services annually, primarily to the disadvantaged, and to make direct financial contributions to local legal services providers.

B. Volunteer attorney programs should continue to be well funded so that there are adequate means at the local level to match client needs with volunteer lawyers. The MSBA should provide additional technical support to assist local programs with fundraising and increasing donated legal services.

C. The MSBA's Legal Assistance to the Disadvantaged Committee should be encouraged to develop a system for measuring the pro bono activities undertaken by Minnesota lawyers in order to establish a baseline for those activities, to encourage more lawyers to participate, and to evaluate whether efforts to increase such activity are successful.

D. The bar should encourage and support private fundraising initiatives undertaken by the legal services providers.

E. The MSBA and LTAB should work together to encourage Minnesota banks to restore the interest rates on lawyers' trust accounts to earlier levels. Even a one percent increase would substantially increase the revenue available for distribution to legal services programs.

F. To ensure that all lawyers assume an increased part of the responsibility for funding legal services providers, beyond the voluntary financial contributions that many individual lawyers already make, the Supreme Court should be petitioned to increase the annual lawyer registration fee by $50 for lawyers practicing more than three years, and $25 for lawyers practicing three years or less, with the increase going to the Legal Services Advisory Committee for allocation to legal services providers, including volunteer attorney programs.

With respect to the Legislature, the Committee requests that funds appropriated from the general fund for legal services be increased as follows:

•The appropriation base for civil legal services should be increased by $900,000 for the fiscal year which begins on July 1, 1996, bringing the annual base amount to $5,907,000.

•The appropriation base for civil legal services should be increased by $1,000,000 for the fiscal year which begins July 1, 1997, bringing the annual base amount to $6,907,000.

•The appropriation base for civil legal services should be increased by $1,500,000 for the fiscal year which begins on July 1, 1999, bringing the annual base amount to $8,407,000.

Because the Committee believes that providing access to civil justice for all people, like access to criminal justice, is a fundamental responsibility of our society, the Committee does not believe that appropriations should be increased only if a new revenue source is created. The Committee notes that the following revenue sources exist or could be created by the Legislature:

• The State has a projected surplus in the general fund in excess of $500,000,000.

• The fee for filing certain real estate documents could be increased by $2, as was done in 1992 and 1993. This would generate $1.8 million per fiscal year.

• The fee for filing civil court lawsuits could be increased by $8. This would generate $1.1 million per fiscal year.

• The annual filing fee for professional corporations could be increased by $75 per year. This would generate $290,000 per fiscal year.

The pros and cons regarding the use of each of the above sources are discussed in Section VII, below.

These increases, if implemented, will offset the current and pending 1996 LSC funding losses. If no further losses occur in the next few years, these increases would also significantly reduce the unmet need, which carries a serious cost to our State. They would also provide a stable funding base, leaving Minnesota's low-income citizens less vulnerable to the effects of unpredictable political changes on the national level. Additional means of addressing the unmet needs should also continue to be explored.

II. THE LEGAL NEEDS OF MINNESOTA'S POOR PEOPLE AND THE CIVIL LEGAL SERVICES DELIVERY SYSTEM

A. The Unmet Needs for Legal Services

The 1990 census reports over 640,000 low-income[3] individuals in Minnesota, 16 percent more than in 1980. A 1994 study by the American Bar Association found that 47 percent of those households will experience at least one legal need each year; half will face more than one need.[4] Thus, over 300,000 low-income Minnesotans experience legal problems each year, many of them critical to basic needs and survival.

The legal needs of low-income Minnesotans most often involve problems which directly affect their day-to-day lives: their homes, their families, their health and personal safety, and support for their children. Preventing an eviction or the repossession of the family refrigerator or securing child support or an order for protection against domestic abuse often means the difference between having adequate food, clothing, or shelter or doing without. The need for lawyers also arises from the complexity of the laws and regulations that confront low-income persons. The intricacy of subsidized housing regulations, the technical aspects of public assistance eligibility, and the requirements of programs for financially distressed family farmers are difficult to understand not only for low-income people but also for lawyers who do not specialize in poverty law. In most instances, low-income persons are unable to assert their rights without the assistance of a lawyer.

The Minnesota Supreme Court's Task Force on Race Bias in the Judicial System identified lack of access to civil legal services for minority race individuals as a serious problem, and the Minnesota Supreme Court's Gender Fairness Task Force found that access to civil legal services is a serious problem for low-income women and their children. A 1989 MSBA study, Family Law: A Survey of the Unmet Need for Low-Income Legal Assistance, found that legal services providers were able to accept for full representation only 27 percent of the low-income eligible callers requesting help with family law problems. While there is one lawyer for every 265 persons in the general population, there is only one legal aid lawyer for every 3,000 poor persons in Minnesota.

From 1984 to 1994, the Coalition programs' caseload grew by 41 percent, from just over 30,000 cases in 1984 to over 43,000 in 1994. In that same time period, requests for service increased by over 62 percent. Coalition programs had to turn away more than 20,000 eligible people in 1994 who actually came to the programs requesting service; many more with critical legal needs did not even seek assistance.

This large and growing unmet need for civil legal assistance can be attributed to the following factors, among others:

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[3]Low-income refers to persons living on incomes below 125% of the federal poverty level. This standard was set at a gross annual income of $9,338 for one person and $18,938 for a family of four in 1995.

[4]Legal Needs and Civil Justice: A Survey of Americans, American Bar Association, p.p. 3-5 (1994).

- Poverty has grown due in part to underemployment and recessions, continuing high unemployment in some industries, and the short supply of jobs that pay a living wage and provide benefits.
- Minnesota's minority population grew 72% between 1980 and 1990, the fourth highest rate of increase in the country.
- An analysis of 1990 census data showed that 43.7 percent of the nonwhites in Minneapolis and St. Paul live below the poverty line, the highest percentage of people of color in poverty in the 25 largest metropolitan areas in the country.[5]
- Between 1980 and 1990, the number of Minnesota children living in poverty rose from 118,000 to over 142,000, a 20 percent increase; the poverty rate for female-headed families grew from 31.8 percent to 40 percent.
- The growing refugee population in Minnesota brings special legal needs. The Asian and Pacific Islander population grew by almost 200 percent between 1980 and 1990. Minnesota has the fifth highest rate of increase in Asian population in the country.
- Each year about 45,000 migrant farmworkers come to work in Minnesota fields and food processing plants. Relationships between workers and growers are governed by a complex set of federal and state labor and employment laws. Typical legal problems include wages being illegally withheld and workers being underpaid for their work.
- Homeless populations are growing. Minority race persons now account for 59 percent of all persons housed in overnight shelters and the number of families in shelters has increased substantially. A 1994 Wilder Foundation study found that the number of persons without permanent shelter in Minnesota rose by 64 percent from 1991 to 1994. The number of homeless Minnesota children grew by 500 percent in the last 10 years.
- Affordable, safe and decent housing is in very short supply. A recent study by the St. Paul Tenants Union of over 1,000 households with incomes of less than $10,000 found annual average rental payments to be 50-85 percent of monthly income.
- The depressed economy in rural parts of the state presents serious legal problems for financially distressed family farmers, and other rural residents. After factoring in all off-farm income, 22 percent of family farmers, who account for more than 20 percent of all U.S. agricultural production, live in poverty, which is much higher than the rate of poverty for the general population.
- Traditional agricultural credit is drying up, so farmers borrow money wherever they can find it, facing usury and other lending law issues. The rise of industrial agriculture is forcing farmers into contracting arrangements where they need help under the Packers and Stockyard Act and many complex state laws.
- Substantial changes and reductions in government benefits programs at the federal and state level in areas such as health care programs (Medicare and Medical Assistance), income maintenance programs (AFDC, SSI and Food Stamps), farm programs (FmHA and farm credit), and housing programs (public and subsidized housing, emergency energy assistance, and tax credits for construction of low-income housing) pose significant challenges as programs are redesigned and as clients lose important services.
- Changes in immigration laws have established new standards for legalization and made major changes related to employment of aliens. Proposed changes in government benefits programs are likely to exclude even persons with legal resident status.

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[5]Metropolitan Council, "Keeping the Twin Cities Vital: Regional Strategies for Change in the Fully Developed Area," at p. 18, (February, 1994).

- Physical isolation, cultural barriers, language barriers and special legal problems arising from Federal Indian law and treaties make it more difficult and expensive to provide legal services to low-income Indian people residing on reservations.[6]
- There is a high correlation between disability and poverty. In Minnesota, of the 524,000 people of working age with disabilities, over 70% are unemployed. Discrimination against persons with physical or mental disabilities is a long-standing problem. Also, federal budget cuts and redesign of the Minnesota's health care delivery system threaten services needed by persons with disabilities to enable them to live with their families in the community and to function independently.

The national ABA survey noted above, as well as other state surveys around the country, confirm that poverty and legal problems go hand-in-hand. Lack of resources leads to increased stress on family relationships, causes debt-related problems, jeopardizes housing and access to health care, and often brings people into contact with one or more of the "safety net" programs, all of which have complicated eligibility rules unfamiliar not only to most citizens but also to most attorneys. Lack of resources also makes court appearances difficult. Many people have limited access to child care and transportation. Transportation is especially a problem in rural areas. And those who are fortunate enough to be employed, risk job loss if they miss work to see a lawyer or to appear in court.

B. How Legal Services Works in Minnesota

At the center of the civil legal services delivery system in Minnesota are the six programs which comprise the Minnesota Legal Services Coalition. They provide legal assistance to low-income, elderly and disabled persons with funding derived in part from the national Legal Services Corporation. LSC is a private, non-profit corporation funded by Congress to make grants to local programs which provide free legal assistance to poor people in civil matters. The Coalition programs provide services in all 87 counties in Minnesota.[7] The goal of these six private, non-profit corporations -- Anishinabe Legal Services, Judicare of Anoka County (Anoka), Legal Aid Service of Northeastern Minnesota (LASNEM), Legal Services of Northwest Minnesota (LSNM), Mid-Minnesota Legal Assistance (MMLA), and Southern Minnesota Regional Legal Services (SMRLS) -- is to provide a full range of high quality civil legal services to poor persons to enable them to

- obtain the basic necessities of life and assure equal opportunity,
- assert and enforce their legal rights and
- obtain effective access to the courts, administrative agencies, and other legal forums.

The programs enforce the law when clients' rights are violated, represent clients' interests when changes in the law which would affect them are being considered, and inform low-income people of their legal rights and responsibilities. The programs do <u>not</u> handle criminal cases or lawsuits

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[6]See Appendix C for further information on these factors.

[7]See map showing program service areas, Appendix B, page 52.

which might be fee-generating, that is, cases in which the lawyer might be able to recover a fee from the proceeds of the case.

Approximately 72 percent of those served by Coalition programs are women and children, reflecting the continuing feminization of poverty documented in the census and other reports. Other disadvantaged groups make up a significant portion of the client population: a significant number are people with mental or physical disabilities, 16 percent are age 60 or over, and more than one-quarter of the clients are Black, Hispanic, Native American or Asian though only 6.3 percent of Minnesota's total population are members of racial minorities according to the 1990 census.

In 1994, the types of legal problems handled by Coalition programs included family (27.3 percent), housing (23 percent), income maintenance (15.1 percent), consumer (10 percent), individual rights (7.4 percent), health (5.5 percent), employment (2.2 percent), juvenile and education (2.2 percent), and other (7.4 percent).[8]

Each Coalition program is governed by a board of directors composed of lawyers (60 percent), eligible clients (33 percent), and others who reside in the area served (7 percent). Local bar associations and the Minnesota State Bar Association appoint the majority of lawyer board members. Client organizations or advisory groups often recommend client members. These locally controlled boards oversee program finances, policies, and operations and adopt legal work priorities.

The six Coalition programs provide staff legal services through 38 offices and employ 166 lawyers, 70 paralegals and 107 administrative and clerical support persons (as of May of 1995). Over 325 private lawyers participate on the Anoka, LASNEM and LSNM judicare panels, averaging 10 cases per year. Over 1,700 private lawyers donate legal services through the six programs' volunteer and judicare programs, donating legal services valued well in excess of $3.5 million each year. These volunteer programs cover 78 of Minnesota's 87 counties. Volunteer attorney services in the other nine counties are coordinated by independent volunteer attorney programs, two of which receive subgrants from LSC-funded programs to support their service delivery.

The Coalition programs handle approximately 43,000 cases for low-income families and individuals annually. Most clients receive assistance resolving legal problems without litigation. This may include advice only, brief service, or negotiation. Although many cases involve limited time, they require an in-depth understanding of the substantive law. Matters involving sophisticated issues of law, complex government regulations, obscure consumer protection laws, and the like, can be handled in an effective and efficient manner because of staff familiarity and expertise in poverty law. Only 10 percent of Coalition program cases in Minnesota are resolved by court or administrative agency decisions. In fewer than one-tenth of one percent of legal services cases, important legal problems common to large numbers of low-income persons may be addressed through group representation and class action litigation. This is done only when it is more cost-effective than litigating the same issue over and over. It is estimated that an additional 30,000 to 40,000 persons benefit each year from such cases. Approximately one

[8]See chart of the Types of Problems Handled by Coalition Programs, Appendix B, page 53.

percent of Coalition programs' work involves representation of eligible clients in legislative and administrative rule-making proceedings, often at the request of appropriate public officials. Like class actions, legislative representation can be undertaken only in compliance with detailed policies adopted by local programs' boards of directors. This work affects large numbers of low-income people.

The Coalition programs also fund the Minnesota Legal Services Coalition State Support Center, which furnishes training, coordination and substantive law support services to the direct-assistance program staffs, volunteer lawyers, and clients. The support center provides training for legal aid staff and volunteers, develops community legal education booklets for clients in as many as five languages, publishes a poverty law newsletter for legal aid staff and over 2,000 volunteer lawyers, and oversees statewide task forces in poverty law areas. State support services are also available to non-LSC-funded programs and volunteer lawyers throughout Minnesota. The Center received a significant portion of its funds through the LSC from its inception in 1982 through 1995. LSC funds will not be available for state support services in 1996 and thereafter. The Coalition programs are committed to maintaining these services, albeit on a reduced basis, through other funding sources.

The Coalition programs, through staff and volunteers, provide well over 80 percent of the resources currently available to meet the critical legal needs of low-income Minnesotans. The remainder comes through a variety of other staffed offices and independent volunteer attorney programs generally providing additional services in single counties or to special populations. Fourteen of these other legal services providers are funded in part by the Legal Services Advisory Committee and/or the Lawyer Trust Account Board. All of these services supplement the statewide coverage provided by the Coalition programs. Some programs, like Centro Legal, provide services using staff lawyers and paralegals; others, like the Volunteer Lawyers Network and the Duluth Volunteer Attorney Program, have primarily non-attorney staff and provide client services by referral to volunteer lawyers. Others, like the legal assistance programs in Dakota, Olmsted and Washington Counties, handle some matters using staff lawyers and others by referral to volunteer lawyers. The staff and volunteer lawyers working with these programs handle between 8,000 and 9,000 cases each year including full representation, brief advice, and referrals.

More detailed descriptions of the Coalition programs, the independent volunteer attorney programs, and others receiving state and/or Lawyer Trust Account Board funds are attached as Appendix B.

C. Who Is Eligible For Legal Services In Minnesota

To qualify for legal assistance through one of the Coalition programs, an applicant must (1) have income less than 125 percent of the federal poverty level; (2) be found eligible under the program's financial guidelines; (3) reside in one of the counties or on one of the reservations that the program serves; and (4) have a critical legal problem which falls within the local priorities adopted by the program's board of directors. Financial eligibility requirements for service with state-appropriated funds are derived from the LSC standards. Generally, financial eligibility for the volunteer attorney programs serving all 87 Minnesota counties is based on these guidelines, although some programs, such as the Volunteer Lawyers Network in Hennepin County, have tighter financial requirements. Funding sources other than the LSC may have their own

guidelines. For example, programs for Older Americans, persons with developmental disabilities or mental health problems, programs for battered women, and others, may have special categorical eligibility guidelines. Any foundation will require services in conformance with the particular grant agreement.

D. Impact of Legal Services on the Community/How Legal Services Saves the State Money

The unmet need for legal services has a price tag for society.

•**Legal aid stabilizes families, maintains communities, and makes society safer.** By getting battered spouses and children out of abusive situations, by keeping people in safe and sanitary housing, by preventing homelessness, by protecting access to food, clothing, shelter and medical care, and by avoiding sudden school changes which result from evictions, legal aid gives low-income persons a voice and a stake in our society. Family instability, abuse, deprivation, and school instability are identified risk factors in producing violent crime. Legislators estimate that steering just five people away from violent crime saves taxpayers $4 million in prison and corrections costs.[9]

•**Legal aid saves taxpayers money.** In Minnesota, family law cases handled by legal services programs result in over $4 million in new child support orders each year, most for public assistance recipients. Many orders also require maintenance of private health insurance for children who would otherwise be on taxpayer-funded Medical Assistance. Social Security cases for disabled persons result in reimbursement to the state and counties of approximately $2.9 million a year, plus $2.8 million a year in monthly disability benefits. Recipients would otherwise be dependent upon state and county-funded General Assistance, or on private charity, or would be destitute and homeless, placing an increased demand on shelter and food shelf resources. The $2.8 million benefit cumulates each year since disability benefits are provided only to those who are permanently disabled. Legal aid's successes, therefore, dramatically reduce state and county tax burdens and the burden on private charities. Federal disability benefit recipients also shift from General Assistance Medical Care to Medical Assistance, reducing the state's cost by 54 percent.

•**Legal aid helps to prevent legal problems which would otherwise further clog the court system, increasing its costs.** Legal problems don't disappear when legal services programs shrink. While some people simply abandon legitimate claims, many others pursue their cases without representation. They are forced to navigate the court system without a guide. They negotiate with landlords or other parties who have lawyers to help them. They file their own briefs and other papers. These cases clog the court system, increasing its costs. Legal services offices reach tens of thousands of persons each year through community legal education workshops, self-help materials, newspaper columns and radio and TV shows. Legal services staff also train public and private social service agency staffs in relevant areas of the law. This enables many clients to avoid legal problems or resolve them without having to use the legal system.

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[9]Sen. Ellen Anderson and Rep. Charles Weaver, "Put Money into Prevention Programs, Not More Prisons," StarTribune, March 8, 1995, p. 15A.

•**Legal aid helps people to become self-sufficient and participate effectively in society.** Legal aid provides constructive resolution of problems resulting from family violence, homelessness, substandard housing, malnutrition, lack of access to medical care, and discrimination. This enables disadvantaged persons to stabilize their lives and become contributing members of society. Legal aid helps reunite families, thus strengthening them as an economic unit and moving them down the road to self-sufficiency.

III. CURRENT FUNDING

A. History of State Funding and Other Sources of Funding

In 1995, funding for the Coalition programs came from a variety of sources.

Minnesota Legal Services Coalition Programs
Financial and Volunteer Legal Support Received in Calendar 1995

Source	Percent	Amount
Legal Services Corporation	29.1	5,000,725
United Way	7.2	1,225,686
Older Americans Act	4.2	713,835
Other Federal	8.5	1,447,933
Foundations	5.4	920,725
Local	3.6	620,809
State of Minnesota (General)	24.4	4,181,300
State of Minnesota (Family Law)	5.1	877,000
Lawyers Trust Account Board	4.8	823,158
Interest	1.0	177,855
Attorneys' Fees	2.5	422,200
Miscellaneous	4.2	719,459
TOTAL	100.0	**$17,130,685**
Value of Volunteer Legal Services Through Coalition Programs		3,500,000
TOTAL Including Volunteer Legal Services		**$20,630,685**

An average of 29 percent of funding for the Coalition programs comes from LSC, a total of just over $5 million in 1995. For individual programs this ranges from 62 percent to 20 percent of their total funding. State appropriations account for another third of the Coalition programs' resources. The Lawyer Trust Account Board, United Ways, local governments, other federal funding, foundations, corporations, and other sources provide the remaining third. Private lawyers give over $500,000 each year to legal services providers. In addition, legal services donated through the Coalition programs alone are valued at over $3.5 million each year. Significant legal services are donated through other providers and directly to clients by lawyers.

Other civil legal services providers, including volunteer attorney programs, receive funds from similar sources except they do not receive LSC, Older Americans Act, and other major federal funding. Many get significant local government, United Way and private support. All non-LSC-funded providers have access to services from the Coalition's State Support Center. Volunteer attorney programs also receive support from the Minnesota State Bar Association's (MSBA) Minnesota Volunteer Attorney Program.

In 1984, the Supreme Court, at the request of the MSBA and in cooperation with Minnesota banks, initiated the Interest On Lawyers' Trust Account (IOLTA) program. Through this program, certain client trust funds being held by lawyers, which could not be placed in separate accounts for the benefit of the client, are placed in pooled interest-bearing accounts, with the interest forwarded to the Supreme Court to be distributed for law-related charitable purposes by the Court-appointed Lawyer Trust Account Board (LTAB). This program at its peak generated approximately $2,200,000 per year. Due to reduced interest rates, it now generates about $900,000 per year.

Civil legal aid funding (Minn. Stat. § 480.24)[10] was initially enacted by the Legislature in 1982 to help counter a 25 percent reduction in federal funding in 1981. This first legislative action generated approximately $1,000,000 through a dedicated $10 surcharge on certain civil court filing fees. The statute ensured proportional state-wide distribution of 85 percent of the funds to Coalition programs with the remaining 15 percent distributed by grants through the Supreme Court Legal Services Advisory Committee (LSAC).[11] In 1985, a 3-year sunset on the surcharge was removed. The dedicated funds were later replaced with an appropriation from the general fund.

In 1986, the Legislature, based on recommendations from a joint MSBA-Attorney General task force, added another $10 surcharge on civil filing fees to support an appropriation of $825,000 per year for legal assistance to financially distressed family farmers. This was later merged into the general fund. The understanding was that local Coalition programs would continue to provide direct legal services as needed for individual family farmers and that statewide services delivered by the Minnesota Family Farm Law Project of the Farmers Legal Action Group would be supported through the discretionary funds distributed by LSAC.

In 1990, the Legislature increased the filing fee surcharge by $5 and appropriated an additional $890,000 as the first step in addressing the critical unmet need for family law legal services identified in the Supreme Court's Gender Fairness Report.

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[10]Minn. Stat. §§ 480.24-480.242 are contained in Appendix D.

[11]County by county poverty population statistics for Minnesota are found in Appendix B, page 54-55.

The Legislature subsequently approved $2 (1992) and $2.50 (1993) surcharges on most real estate document filing fees to fund an increase in legal aid appropriations. These surcharges together produce over $5,000,000 per year. Legal aid received an increase of approximately $2,400,000 a year in 1992-93 or 48 percent of the new revenues. The balance was used for other state and county purposes.

In 1995, an additional $500,000 per year was appropriated. The current annual appropriation base is $5,007,000 for general civil legal services, plus $877,000 for family law services.

B. Recent and Anticipated Funding Reductions and Their Impact on Staffing

In 1995, in addition to the rescission of some 1995 LSC funds, many legal services providers suffered cuts from United Ways; in the metro area, United Way cuts averaged four to five percent because of diminished revenue and designated donations. In 1996, LSC-funded programs face a major cut in their federal funding. Further cuts, if not total elimination of federal funding, are possible for calendar year 1997. There will no longer be federal funding for State Support Center services. It is unlikely that there will be earmarked federal funding for migrant legal services as there has been in the past. Other federal funding will also decrease; for example, Older Americans Act funds will be cut by approximately ten percent. Protection and Advocacy programs for persons with mental illness and developmental disabilities will also be cut back. FARM AID, a public charity funded by the proceeds from Willie Nelson's concert series, has been a core funder of the Farmers' Legal Action Group. While FARM AID continues to grant FLAG about one-sixth of all money raised, the dollar amount has decreased from about $300,000 for 1988 to about $100,000 for 1995. Legal services providers generally may also face further declines in United Way funding as designations of donations increase. LTAB revenues have fallen over 55 percent in the past four years, reducing grants to the Coalition programs by $1 million a year and to other programs funded through the LTAB by over 50 percent.

The Coalition programs have been preparing for the past year for the funding cuts, anticipating their impact in 1996 and 1997. For example, MMLA has eliminated seven casehandler positions since November 1994, and will eliminate five more effective July 1996. SMRLS has eliminated 5 casehandler positions since January 1995, and plans to eliminate 4.5 more in 1996. LSNM has eliminated 2 casehandler positions since January 1995 and eliminated all plans for a branch office in Thief River Falls which was scheduled to open in Fall of 1995 and included 4 staff positions. LASNEM has eliminated one casehandler position since January 1995 and will exhaust its reserve funds in order to retain its remaining staff through 1996. Further layoffs may occur in 1997. Anishinabe lost one casehandler position in 1995; effective January 5, 1996, remaining staff took a 20 percent cut in salary with the office closed on Fridays. And Anoka is reducing the number of clients served by Judicare panel members.

RECOMMENDATIONS

The Committee explored issues facing, and developed recommendations directed toward, the court system, the legal services providers themselves, and the private bar. The Committee also developed recommendations for legislative action. These recommendations, with supporting background information, are outlined below.

IV. RECOMMENDATIONS TO THE COURT SYSTEM

The Committee acknowledges the efforts of the Minnesota Supreme Court and the Conference of Chief Judges to address the critical civil legal needs of low-income persons and recommends that the Court system take the following additional actions.

A. Judicial District Action Plans. Each judicial district should approve and implement an action plan to help meet the legal needs of low-income Minnesotans consistent with judicial ethical requirements.

In 1993, the Minnesota Supreme Court established a committee chaired by Justice Sandra Gardebring to consider ways in which state court judges could assist in addressing the unmet legal needs of the state's low-income population. Recognizing the inability of publicly-funded legal service organizations to meet all the needs for legal services, in its December 1994 report, that committee made several recommendations for judicial involvement to address the unmet legal needs of the state's population and to encourage representation by volunteer lawyers. The Committee endorses the recommendations in the Gardebring Committee report.

To implement the Gardebring Report, the Conference of Chief Judges has acted to require each judicial district to develop a plan defining the role of judges and court administrators in meeting the unmet needs for legal services in Minnesota. By resolution adopted by the Conference of Chief Judges in early 1995, each judicial district is to develop a plan addressing the following issues:

- Recruitment and retention of volunteer lawyers,
- Procedural practices to facilitate representation by volunteer lawyers, and
- Judicial training and education.

Each judicial district is to present a plan to the Conference of Chief Judges in 1996. The Committee urges the judges and court administrators to involve others, including local legal services and volunteer attorney programs and local bar associations, in a cooperative, on-going effort to develop and implement each district's recommendations.

1. **Support for Volunteer Lawyers.** The Committee encourages judges, consistent with judicial ethical requirements, to be actively involved in the recruitment and retention of volunteer lawyers. The Gardebring Committee identified a number of steps judges can take, consistent with the Canons of Judicial Ethics, to encourage the recruitment and retention of volunteer lawyers.

The Committee also supports the Gardebring Committee's recommendations in the areas of scheduling practices to facilitate representation by volunteer lawyers and judicial training and education. Court administrators should consider all necessary steps to provide maximum scheduling flexibility for volunteer lawyers and to provide flexible court hours to facilitate volunteer lawyers' representation of indigent clients. Each judicial district should consider the particular needs of volunteer lawyers in that district and take all efforts to remove administrative barriers to that representation.

2. **Consider Attorney Fees.** In addition, judges should consider awarding attorney fees to volunteer lawyers and legal service organizations. In family law cases under Minn. Stat. § 518.14 and in other appropriate cases, the Gardebring Committee recommended that judges consider awarding attorney fees. The Gardebring Committee Report noted that case law supported its recommendations. The Report cited Blum v. Stenson, 465 U.S. 886 (1984), in which the Court said that volunteer lawyers and legal services programs should be awarded attorney fees at the same rate as a private lawyer would be awarded fees. The Gardebring Report also cited Rodriguez v. Taylor, 569 F.2d 1231, 1245 (1977), in which the Third Circuit said "[l]egal services organizations often must ration their limited financial and manpower resources. Allowing them to recover fees enhances their capabilities to assist in the enforcement of congressionally favored individual rights."

Award of attorney fees to a volunteer lawyer in a family law case may mean that the lawyer will then be able to accept additional referrals from the volunteer attorney program where, without fees, s/he may not be able to accept additional referrals, particularly after a difficult and long case. Many lawyers and firms donate attorney fee awards to the legal services provider that referred the case, thus enhancing the program's ability to deliver services to more clients. Awards of fees to legal services providers supply funds to represent more clients who might otherwise be appearing pro se. In interpreting statutes similar to, but more discretionary than, Minn. Stat. § 518.14, courts in Montana, Connecticut, and Colorado have ruled in recent years that it is entirely appropriate to award attorney fees to volunteer attorneys and legal services providers. See In re Malquist, 880 P.2d 1357 (Mont. 1994), Benavides v. Benavides, 526 A. 2d 536 (Conn. App. 1987), and Marriage of Swink, 807 P.2d 1245 (Col. App. 1991).

3. **Designate a Contact Person.** Each judicial district should designate a contact person for local legal services and volunteer attorney programs. The Committee believes that the designation of such a person will assist in better communication regarding the needs of low-income litigants and their counsel in that judicial district.

4. **Judicial Education.** The Committee believes that it would be useful to include a session during the annual conference of judges addressing the legal needs of and substantive legal issues faced by low-income persons. If possible, the Committee recommends that this be

a plenary session. Judges and lawyers with acknowledged expertise in this area could give an update on pertinent legal developments and facilitate discussions designed to educate judges on the needs of low-income litigants. It is also important that local court staff receive adequate training to assist low-income clients effectively. Staff should be prepared to assist low-income litigants in appropriate referrals to local legal services organizations and volunteer attorney programs and with the proper use of court forms and referral to other appropriate services.

B. Pro Se Litigants. Courts' efforts to improve services to pro se (self-represented) litigants should address the special needs of low-income users.

The numbers of litigants appearing in Minnesota courts without attorneys are increasing, slowing the judicial process, increasing costs and requiring additional resources of the court. They come from all socio-economic groups. Some are pro se by choice, others by necessity. The problems of low-income litigants are often exacerbated by barriers of literacy, language and culture.

The Minnesota court system has initiated a study of this situation and will be making recommendations to provide assistance to pro se litigants. In addition to providing more information to pro se litigants, the courts will be exploring emerging "user friendly" technologies such as information kiosks, auto-attendant telephone systems, and video and computer technologies, to conserve court resources.

While such technologies and services for pro se litigants may be useful in assisting many litigants, pro se assistance cannot replace trained legal counsel representing a litigant. This is especially true of low-income litigants. As the court system proceeds with plans to assist pro se litigants, the fact that many low-income persons may not have the necessary skills to effectively utilize these "self help" methods should be addressed. Training and volunteer recruitment should be expanded to ensure that there are resources to assist those who may not be able to effectively use such "self help" methods. The Committee recommends that court efforts to improve services to pro se litigants should address the special needs of low-income users.

Finally, as the courts recruit volunteers for efforts to improve access to the courts for pro se litigants, the Committee urges them to work cooperatively with local volunteer attorney programs to ensure that volunteers are not drawn away from serving low-income clients directly in high priority cases. In some rural counties, for example, most lawyers are already participating as volunteers, and there are few additional lawyer resources to tap. The Committee believes that especially in the metropolitan area, there can be synergistic efforts between the courts and volunteer programs to draw new volunteers into both the court and legal services efforts. Retired attorneys and law students also should be recruited and involved wherever possible.

C. **Undistributed Class Action Proceeds. The Committee recommends that trial judges in all courts in Minnesota be educated about the need for funding for legal services for the disadvantaged, and be encouraged to consider making counsel and litigants aware of the possibility, in appropriate cases, of designating local legal services or volunteer programs or the Legal Services Advisory Committee as recipients of cy pres funds, the money left over after class action proceeds have been distributed as far as possible.**

Charitable organizations are often designated as the recipients of unclaimed residual funds in class actions under the long-standing cy pres doctrine. The concept is that the unclaimed portion of a class action recovery may be applied to a charitable purpose related to the original purpose of the case. Recently, the cy pres doctrine has become increasingly flexible. Residual funds have been awarded to programs or charities having only a peripheral relationship to the law or subject matter of the underlying litigation. See e.g., Superior Beverage Co. v. Owens-Illinois, 827 F. Supp. 477 (ND Ill. 1993). Legal services providers have been the beneficiaries of cy pres awards in Minnesota and around the country.

D. **Conclusion**

The Committee recognizes that the state court system, as exemplified by the Report of the Committee on the Role of Judges in Pro Bono Activity, has taken a leadership role in meeting the needs of low-income persons. These commendable efforts provide an excellent foundation for the significant work which still needs to be done. By creating structures that allow for on-going communication among judges, court staff, legal service providers, and local bar associations, the court system will further improve its treatment of and responsiveness to low-income litigants.

V. RECOMMENDATIONS TO THE LEGAL SERVICES PROGRAMS

As discussed earlier in this report, many organizations have documented the serious unmet need for legal services including the American Bar Association, the Minnesota State Bar Association, the Minnesota Supreme Court Gender Fairness Task Force, and the Minnesota Supreme Court Race Bias Task Force. The studies conducted have consistently concluded that even the most critical legal needs -- such as those relating to housing, public assistance income, and family violence -- are not adequately met. Despite limited resources, Minnesota has a comprehensive and well-integrated system of providers delivering civil legal services to low-income people. The Committee looked in detail at the current delivery system and how it might serve clients even more effectively and efficiently.

A. Cost Savings in Legal Services Programs. While the Coalition programs and others are already a national model of coordination and cooperation, the programs should continue to search for areas in which they can achieve additional efficiencies and improve client services through increased coordination and cooperation.

The vast majority of the resources available to meet the critical legal needs of low-income Minnesotans come from the Minnesota Legal Services Coalition Programs. Consistently lean budgets have led the Coalition programs to search continuously for ways to deliver services more efficiently and effectively. The Coalition has a national reputation for the ways in which the programs have worked cooperatively with each other, the private bar, other legal services providers, including independent volunteer attorney programs, funders, the courts, and the Legislature. In search of further increases in efficiency and possible cost-saving systemic changes, the Committee began by looking at how Minnesota's legal services providers already work together. A significant amount of consolidation has already occurred among legal services providers. In 1980, the six LSC-funded programs received a special planning grant which they utilized to identify areas for coordination and cooperation. The system in place today is the result of that process.

After careful examination and extensive discussion, the Committee was impressed with the extent to which the Coalition programs recognize the importance of coordination and consolidation and avoiding duplication, and already possess many of the qualities of a centralized organization -- a shared vision, essentially uniform policies and procedures, coordination of training and service delivery, and shared expertise. For readers to understand the level of coordination and cooperation already achieved, the next two sections describe functions that are currently coordinated and identify other organizations providing supportive and coordinated services.

1. Functions That are Currently Coordinated. The following functions are currently consolidated and/or coordinated among the programs, many by the Coalition's jointly-funded State Support Center (Center).

Client Education: The Coalition programs jointly provide self-help booklets and fact sheets relating to critical needs such as housing, consumer, and family law. Several of these booklets

are provided in Spanish, Laotian, Hmong, Vietnamese and Cambodian, as well as in English. In 1995, 24 community legal education booklets and hundreds of fact sheets and supplemental inserts for booklets were produced. The booklets and fact sheets are widely accessible to clients and potential clients of programs throughout Minnesota. In a recent joint initiative, the Center is working with the Minneapolis firm of Leonard, Street & Deinard to develop a brochure advertising the booklets to public libraries and social service providers, among others. The Center has also been successful in obtaining some donated printing, allowing for greater distribution of these booklets.

Training: The Coalition programs jointly provide continuing legal education for staff of Coalition and other legal services programs, including volunteer lawyers. In 1994, 28 statewide training events in substantive poverty law and legal skills were sponsored by the Center; in 1995, there were 34 events. Most trainers are Coalition program staff. The Center also recently developed an initiative, in cooperation with the MSBA Volunteer Attorney Program, to continue to provide skills training. Some private law firms have agreed to include legal services staff in skills training for their own associates. Local volunteer attorney programs also coordinate their own training events. Where possible, Coalition and volunteer attorney program training events are videotaped so that they can be repeated for lawyers unable to attend the live events. The Center has negotiated with continuing legal education sponsors, such as Minnesota CLE and MILE, for reduced fees for legal services staff. This benefits staff of all legal services providers, not just Coalition programs.

Administrative Rulemaking and Legislative Representation: Critical issues for low-income clients are involved in the legislative process and when administrative agency rules are adopted. Sometimes the legislature is the only forum in which these issues can be resolved. Often legislators and agency staff request legal services staff participation because of their special expertise and familiarity with how laws and regulations affect the day-to-day lives of poor clients. The Coalition programs jointly fund the Legal Services Advocacy Project which provides representation to eligible clients before the Legislature and in administrative agency rulemaking on such subjects as domestic violence prevention, landlord/tenant disputes, public benefits, the cold weather rule, consumer protection, and health care regulation.

Statewide Litigation: Although over 99 percent of cases handled by the Coalition programs involve individual representation, the programs from time to time cooperate on complex litigation. In appropriate cases, such litigation is considerably more cost-effective than litigating the same issue over and over. Class actions, which require court approval, are designed as a judicial efficiency mechanism.

Volunteer Attorney Programs: There are programs covering all 87 Minnesota counties through which private attorneys can volunteer to provide civil legal services to low-income clients. They are described in more detail in the private bar section of this report and in Appendix B. The Coalition programs contribute financial support to the Director of Volunteer Legal Services position at the MSBA. The Director runs the Minnesota Volunteer Attorney Program of the MSBA (MVAP), provides support services to volunteer attorney programs throughout the state, including the independent volunteer attorney programs, and convenes the coordinators of these local programs

three or four times each year to share information and discuss common problems. State Support Center and local Coalition program staff work with MVAP to write and keep up-to-date a Volunteer Attorney Desk Manual, monthly Family Law Appellate Case Summaries, and a Welfare Issues in Dissolution Cases Handbook. These materials go to over 1,500 volunteer lawyers through local programs statewide. The Center's newsletter, task forces and trainings are designed, in part, to address needs of volunteer lawyers.

Case Referral: The Coalition programs have an inter-program client referral policy. The policy applies to situations, for example, where a client may live in one program's service area but have a case venued in another service area. The Coalition programs also work closely with other providers in their service areas to ensure appropriate referrals.

Technical Assistance: The legal services providers coordinate and communicate regularly on the mutual provision of technical assistance. This includes areas like improving the uses of technology, fiscal oversight systems, and support for volunteer attorney programs.

Contracts/Space Sharing: Coalition programs contract with each other and with other agencies, such as Centro Legal and Legal Assistance of Dakota, Olmsted and Washington Counties, in order to avoid duplication and share space, support staff and resources, where appropriate. Some Coalition programs also contract a portion of their LSC funds to independent volunteer attorney programs such as Volunteer Lawyers Network in Hennepin County and the Duluth Volunteer Attorney Program.

Statewide Newsletter: The Center publishes a twice-monthly newsletter for legal services staff and over 1,800 volunteer lawyers. The newsletter emphasizes recent developments in poverty law cases, statutes and regulations, updates on cases, upcoming training opportunities, availability of booklets and other client education materials, and notices of task force meetings and other events of interest. Over 50,000 copies of the newsletter were distributed in 1995. The Minnesota Volunteer Attorney Program of the MSBA underwrites the mailing and printing costs for distribution to volunteer lawyers.

Task Forces: Center staff coordinate bi-monthly statewide meetings of task forces in the areas of family, housing, government benefits and seniors law, and use of computer technology. The task forces discuss common legal problems and conduct training. Non-Coalition program staff and volunteer attorneys are invited to attend task force meetings as appropriate. Through the task forces, ad hoc working groups are also established as needed to deal with specific subjects such as family mediation and welfare reform proposals.

Joint Fundraising: The Coalition programs approach the Legislature jointly for funding and submit a joint IOLTA grant proposal. From their inception in 1982, the Coalition's legislative efforts have included a funding distribution mechanism, the Supreme Court's Legal Services Advisory Committee, which makes a portion of the appropriation available for distribution to non-Coalition programs, such as the independent volunteer attorney programs. In addition, the programs have initiated joint ventures in the past in the areas of farm law, immigration law, and family law. The

programs carefully analyze each fundraising effort to determine whether joint fundraising is appropriate. The decision reached depends on whether the potential funder would prefer one statewide proposal, a joint proposal from several programs, or individual proposals from one or more programs. Where appropriate, non-Coalition programs are also included in joint fundraising efforts.

Bi-Monthly Meetings: The Coalition program directors, along with representatives of some non-Coalition programs, meet bi-monthly to review and coordinate initiatives and matters of statewide concern. The Coalition directors also use these meetings to oversee State Support Center activities.

2. Other Organizations Providing Supportive/Coordinated Services.

Minnesota Clients Council: The State Support Center, as well as the individual Coalition programs, provide some funding for this statewide organization of eligible clients which trains local program board members and provides community legal education.

Minnesota Justice Foundation: MJF coordinates volunteer services by law students at all three Minnesota law schools and provides law clerks and volunteer assistance to legal services program staff statewide. Students assist volunteer lawyers as well which leverages additional volunteer lawyer time. This program is unique in the United States in providing coordination among independent law schools. In the 1993 - 1994 program year, 175 students donated 5,390 hours of legal research and other types of assistance to 203 lawyers representing 2,162 clients.

Loan Repayment Assistant Program: The MSBA and MJF, in cooperation with legal services providers and the law schools, founded this program which makes it possible for legal services lawyers with high student loan debt loads to work for legal services programs which have very low salaries. This program has helped legal services providers statewide recruit and retain staff and is particularly important in improving legal services staff diversity.

3. Staff Compensation. The Committee looked at staff compensation while considering possible areas for cost saving. It quickly became clear that this is not an area where further savings are possible. Junior lawyer salaries generally start below $25,000, and average about two thirds of comparable public lawyers, such as public defenders. Senior lawyers and supervisors are at even lower percentages of parity with public lawyers. Statewide, the staff lawyer experience level averages about nine years. Staff do not accumulate pension rights. Eroding compensation to save money would jeopardize staff stability and experience levels, which are among the programs' strengths. It would also undermine their ability to attract good new lawyers, who are graduating from law school with debts loads averaging as high as $20,000 or more. By accepting such low salaries, legal services staff already effectively subsidize the delivery system. The Committee believes it would be unfair to ask even greater sacrifices.

4. Conclusion. The Committee concluded that while coordination and cooperation are important, there are important benefits to maintaining a significant degree of local control among

the various programs. Community local control, exercised by clients, local lawyers, social service providers, and funders, has been important for the programs in setting priorities. Although all programs tend to identify the same major priority categories (e.g., housing, family law, public benefits), the day-to-day problems experienced by clients in these areas of law vary significantly from program to program. For example, rural and urban clients often experience quite different needs. In addition, programs serving specific populations, for example, Migrant Legal Services, Anishinabe Legal Services, and the Minnesota Disability Law Center division of Mid-Minnesota Legal Assistance, meet very particular needs and consider relevant cultural and other differences in establishing priorities. All programs have developed effective systems for addressing local needs by including client members on each program's local board. For example, Mid-Minnesota Legal Assistance has 24 client members on its various boards. As a result, it receives much more local control and accountability and is more effective than it could be if only one statewide board existed. The Committee concludes that, in many respects, the Coalition programs have already achieved an appropriate balance between centralization to achieve efficiencies and sensitivity to local priorities.

After discussion, committee members noted that further merger of rural offices may not be cost effective. Non-salary costs represent only about 25 percent of program costs. Merging offices leads to increased travel costs and attorney road time while making services less accessible to clients, many of whom do not have easy access to transportation.

The Committee identified several areas where it did believe that increased coordination and cooperation among the Coalition and other programs should be explored. These include improved local, regional, or statewide intake; the possibility of a statewide hotline for brief telephone advice; additional materials and mechanisms for involving volunteer lawyers; joint purchasing; and expanded uses of technology. The Committee gathered information about these possibilities but did not have time to evaluate them thoroughly enough to make concrete recommendations. Experience in other states with statewide hotlines and regional intake has been mixed; both require significant startup and ongoing operating funds and do not reduce the need for staff for full representation of clients. Programs are urged to continue to gather information on these and other ways in which further improvements in client services and cost saving systemic changes can be made. All programs need to continue to communicate regularly with other programs serving similar populations and similar geographical areas to ensure maximum cooperation.

B. Quality Control and Accountability. All programs should become familiar with and abide by the ABA's Standards for Providers of Civil Legal Services, and when available, the ABA's Standards for Pro Bono Providers.

As required by the LSC Act, local Coalition program boards of directors identify critical legal needs, set priorities and client eligibility guidelines, determine which kinds of cases will be handled, establish policies on class actions and appeals, establish client grievance procedures, allocate scarce resources, and perform all other fiduciary duties required of non-profit board members by state statutes. The LSC Act requires grantees to undergo an annual independent financial audit. LSC also uses independent teams of legal and fiscal monitors to evaluate all

Coalition programs on a regular basis, in recent years every 18-24 months. LSC-funded programs also are required to use common case-tracking and statistics formats. Regular input is sought from program clients about their satisfaction with services provided.

The Coalition programs are also subject to performance criteria required by the LSC. The criteria are derived from the ABA's Standards for Providers of Civil Legal Services to the Poor. The performance criteria cover assuring the quality and responsiveness of legal representation, disseminating information about significant legal developments to clients and their advocates, and training of staff and volunteers, among many other things.

The Committee recommends that all programs become familiar with and abide by the ABA's Standards for Providers of Civil Legal Services to the Poor. The ABA's Standing Committee on Lawyers Public Service Responsibility will be presenting Standards for Providers of Pro Bono Services to the ABA's House of Delegates in February of 1996 for adoption. As with the Civil Legal Services Standards, the Pro Bono Standards were developed in cooperation and consultation with volunteer attorney programs, bar associations, and other legal services providers around the country. The Committee recommends that once they are adopted, all programs become familiar with and abide by these Standards.

C. Common Case Service Reports. The Legal Services Advisory Committee and Lawyer Trust Account Board of the Supreme Court should explore asking all legal services providers to use a common format for keeping track of and reporting case service statistics to facilitate monitoring and evaluation of the overall delivery of civil legal services to the poor in Minnesota.

The Committee recommends that the Legal Services Advisory Committee and Lawyer Trust Account Board explore asking LSAC and LTAB funding recipients to use a common format for case service statistics such as that already used by the Coalition programs and their subgrantees, for example, the Duluth Volunteer Attorney Program. As noted above, the Coalition programs use common definitions and categories for keeping track of case service statistics. As noted in Section II, the Unmet Needs section of this report, figures provided in funding proposals to LSAC and LTAB indicate that the non-Coalition programs handle roughly 8,000-9,000 cases each year. For most programs, it is not clear whether these cases are full representation, brief advice, or simply referrals. The Committee believes that it would greatly further the ability of state, local, and private funding sources to monitor and evaluate the overall delivery of legal services in Minnesota if at least all programs receiving LSAC and LTAB funding used similar case tracking and reporting formats.

D. Contributions By Clients. Each local legal services program should establish an administrative client fee or fees, which may be voluntary or mandatory at the option of the local program's board, in the suggested amount of at least $10, subject to hardship exceptions, and the programs should report to LSAC with respect to their ideas and experiences with such fees.

The Committee devoted considerable attention to discussing the concept of clients contributing to the cost of legal services. The Committee recognized that it is important that legal services clients play an integral role in the legal services delivery system. In addition to having client representation on local program boards of directors, the Committee concluded that each local program should establish policies on client contributions toward the legal services they receive. Some believe that asking for client contributions will cause more of a "buy-in" or commitment to the case by some clients.

Some Minnesota organizations have requested or required some level of contribution in the past. For example, the SMRLS' rural volunteer attorney program has since 1982 requested a $25.00 administrative fee which is forwarded to the volunteer attorney at the end of a case to reimburse for out-of-pocket expenses. SMRLS grants hardship waivers in about 10 percent of the cases to which the fee applies. The contribution system receives strong support from the SMRLS volunteer lawyers. No fee applies to staff cases or to volunteer cases in Ramsey County. On the other hand, the volunteer attorneys serving the rural portion of the MMLA service area have rejected the idea of an administrative fee. MMLA, many years ago, requested a $3 contribution. However, receiving feedback that the contribution was a barrier for some clients, it ceased requesting the contribution. LASNEM used to ask for a $50 administrative fee before a client was added to the marital dissolution waiting list. In late 1995, the LASNEM board rescinded the fee believing it was a barrier to service. Centro Legal employs a sliding scale fee system in certain cases. It never charges clients for advice only. It waives the fee if a client cannot pay. Centro Legal has found the fee program somewhat difficult to administer. Programs providing services to senior citizens using Older Americans Act funds are encouraged to request a client contribution at the close of service. Experience with this varies. In some programs, contributions are not requested of people who are totally destitute, in part because program experience has been that some clients may feel compelled to give the program money instead of purchasing needed prescription drugs or food, for example. Others bring cookies or handicraft items instead of money. As providers develop their client contributions policies, the Committee suggests that they gather information about experiences with client contributions both within and outside of Minnesota.[12]

Under current LSC regulations, LSC-funded programs cannot charge for services. After getting LSC approval, programs can ask clients for a contribution for limited administrative expenses.

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[12]See for example, F. Wm. McCalpin, "Should Clients Pay? The Canadian Experience," Management Information Exchange Journal IX:33 (1995).

The Committee analysis determined that imposition of a client contribution would contribute only slightly to funding for the programs.[13] A majority of the matters coming to the programs would not be appropriate for a fee, for example, advice only matters, many of which are handled by telephone; family law cases involving domestic abuse, which are a significant percentage of the Coalition programs' cases; emergency housing cases; or public benefits cases. Any contributions plan must be very sensitive to the fact that even a very small fee will pose a significant or prohibitive barrier for some clients. As the sample monthly budgets found in Appendix E demonstrate, many legal services clients are not simply poor -- they are destitute. For those clients, a fee of even $10 is impossible to pay. Plans must reflect local community needs, including cultural issues. Committee members noted that in some communities, because of pride and other cultural factors, destitute clients may not seek service at all despite availability of a hardship waiver. Some programs may want to consider asking for a contribution at the close of service rather than up front.

While there are strong proponents of asking clients to contribute, the biggest concern expressed by some Committee members was that destitute clients with meritorious cases not be discouraged from requesting service. Also, some programs that have implemented client fees or contributions, such as Centro Legal, do not find any difference in client commitment in fee versus non-fee cases. A Committee member noted that cases involving some difficult clients of legal services programs could be even harder to handle if the client has paid a fee to the program.

Because experiences with client contributions and administrative fees have varied so widely and because each local program may take a different approach to implementing the Committee's recommendation, the Committee believes that it is important for the programs to report to the Legal Services Advisory Committee with respect to their experiences with and ideas about such fees. The programs are also encouraged to share their experiences with each other.

E. Full Range of Legal Services. The legal services delivery system should continue to strive to offer to low-income people a level playing field, access to all forums, and a full range of legal services in areas of critical need.

For over 50 years, Minnesota's legal services programs have offered low-income Minnesotans access to a full range of services, ranging from advice and representation in routine cases to client representation in legislative and administrative rulemaking proceedings and representation of large numbers of clients in complex litigation addressing systemic legal problems. For example, legal services staff in Minneapolis and St. Paul helped draft and get passed the Small Loan Act to respond to loan sharking. The Minneapolis program helped with the creation of the Conciliation Court system, to give low-income people access to justice in small cases without the need for a lawyer. Legal services staff in the past have represented clients successfully challenging race

[13] Generous estimates are that client contributions would raise no more than $100,000 statewide per year. In some cases, these contributions or administrative fees do not come to the program. For example, the administrative fee paid to the SMRLS rural volunteer attorney program goes to the individual volunteer lawyer as reimbursement for costs at the end of the case. Some volunteers donate the fee back to the program.

discrimination in the Minneapolis and St. Paul fire departments, race and disability discrimination in public housing, and illegal termination of disability benefits to thousands of disabled Minnesotans. Legal services staff helped draft and get passed the Domestic Abuse Act, which has given tens of thousands of abuse victims fast access to the courts without the need for lawyer involvement. There are many other examples of similar cost-effective lawyering by legal services staff in Minnesota.

The Committee recommends that every effort be made to preserve the flexibility of local programs to respond to client need in the most efficient, effective manner. It is equally important that legislative and administrative policy-makers have access to the unique perspectives of legal services staff, and that the judicial system be able to fashion the most cost-effective remedies available in cases handled by legal services lawyers. This is especially important if program resources are shrinking while client needs are growing. While the final details are not in place, it is clear that Congress is going to impose on providers that accept LSC funds, restrictions and prohibitions on activities which Congress does not wish to fund. However, in a change from past practice, these restrictions and prohibitions will apply to all funds received by those programs, including state-appropriated, United Way, private foundation, and other funds. Some of those non-LSC funds are earmarked by funders for activities which will now be restricted. It will be critically important for programs that do not receive LSC funds to continue to offer clients access to legitimate services that cannot be provided with LSC funds but that local boards determine are essential. Some of the restrictions and prohibitions include

•no legislative representation of eligible clients at the local, state, or federal level, including responding to requests from city council or county board members or state legislators.

•no administrative rule-making representation at the local, state, or federal level, including responding to requests for information or assistance from agency staff.

•no legal representation for any person or any other participation in litigation, legislation, or rulemaking involving efforts to restructure a state or federal welfare system, except that programs could represent an individual client who is seeking specific relief from a welfare agency where the relief does not involve an effort to amend or otherwise challenge existing law.

•no ability to seek or collect statutory attorney fees awarded by the court[14]

It is very important that legal services providers in Minnesota continue to strive to offer to low-income people a level playing field, access to all forums, and a full range of high quality legal services in areas of critical need.

The Committee recommends that the LSC-funded programs take whatever steps they can to keep non-LSC funds free to be spent on whatever activities other funders wish to support.

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[14]See Section IVA2 at page 17. The Committee recognizes that the prohibition on LSC-funded programs claiming attorney fees may cause problems with implementing this recommendation encouraging judges to consider awarding attorney fees. As resources for legal services are more limited, it will be even more important that judges consider awarding attorney fees to volunteer lawyers and to non-LSC funded programs. There is no prohibition on LSC-funded programs recovering actual costs.

F. **Special Populations and State Support Services. Legal services funding should be structured to ensure that populations with special needs, such as Native Americans, migrant and seasonal farm workers, people with disabilities, and financially distressed family farmers, continue to have access to legal services and that adequate state support services, such as training, community legal education materials and mechanisms for information sharing continue to be available to all legal services providers, including volunteer attorney programs.**

As described in Section II on the unmet legal needs, Congress has decided to discontinue earmarking LSC funds for services to populations who are historically undercounted in the census and who are particularly vulnerable and have special legal needs such as migrant workers. LSC funding for Native American programs, while being provided as a separate line item, is being substantially reduced. As noted above, legal and advocacy services for persons with disabilities are also losing funding at the same time that benefit programs for those persons are being drastically cut back; this will jeopardize self-sufficiency efforts for those trying to work and may lead to reinstitutionalization of many children and adults with disabilities. Financially distressed family farmers are having serious difficulties financing their operations and face increasingly complex legal issues involving lending law generally and agricultural credit and new farm programs in particular. All of these populations with special needs must continue to have access to legal services.

Also, all LSC funding for national and state support services such as substantive poverty law training and information sharing has also been eliminated. Until 1996, four percent of LSC funds allocated for each state (approximately $200,000 in Minnesota) went to state support services. In the past, a national poverty law journal, Clearinghouse Review, was provided free to each local LSC-funded office. Copies of pleadings and other documents could also be requested and computerized legal research assistance with the specialized poverty law data base was available. Other national support center publications were supplied free to local LSC-funded offices and independent volunteer attorney programs. These included extensive practice manuals in public and subsidized housing, consumer law, welfare law, and education law, among others. Centers also provided expert assistance through phone consultations and sending trainers to statewide continuing legal education programs. All of these resources made local programs more efficient by eliminating duplication of effort and "reinventing the wheel". Local programs will now have to budget separately for all of these services which could easily cost several thousand dollars each year. Minnesota's State Support Center relied on these materials and trainers as a base on which to produce the high quality, Minnesota- specific materials relied upon by local programs, clients, and volunteer lawyers.

The importance of Minnesota's State Support Center to the coordination and cooperation among all civil legal services providers, including the volunteer attorney programs, and the loss of the LSC funding for state support services and loss of the national resources, make it critically important that there be strong efforts to continue state support services in Minnesota with other funds.

VI. RECOMMENDATIONS TO THE PRIVATE BAR

In Minnesota, the legal profession has a long tradition of providing uncompensated legal services to people who cannot afford them. Meaningful access to our system of justice usually requires the assistance of a lawyer. Minnesota lawyers, understanding that the disadvantaged must have access to justice, fill an important and expanding role in the overall delivery of legal services to the disadvantaged. Organized volunteer attorney programs, some of which are almost 30 years old, have continued to grow. LSC-funded programs are required to make an amount equal to 12.5 percent of their LSC grant available to provide opportunity for the involvement of private attorneys in the delivery of legal assistance to eligible clients. The pool of lawyers who volunteer their services through the structured programs in Minnesota has increased from under 500 in 1981 to over 3,000 in 1994.[15] The MSBA's Directory of Pro Bono Opportunities for Attorneys lists over 70 organizations through which lawyers can volunteer.[16] Unfortunately, as the need for legal services is increasing, the ability of LSC-funded and other programs to meet the need is adversely affected by shrinking resources and LSC restrictions. Volunteer lawyers will be increasingly called upon to help meet the legal service needs of the disadvantaged.

Recent efforts build upon many years of MSBA activity in support of access to legal services generally and volunteer legal services specifically. The MSBA encouraged and assisted with formation of volunteer attorney programs to serve all 87 Minnesota counties in the early 1980s. The MSBA's Director of Volunteer Legal Services provides technical assistance and support to Minnesota civil legal services providers including volunteer attorney programs. The MSBA has developed, adopted and disseminated Model Pro Bono Policies and Procedures for Law Firms and Government Attorneys. The MSBA's Legal Assistance to the Disadvantaged (LAD) Committee is currently circulating for comment a draft model pro bono policy for law schools. More broadly, the MSBA has consistently supported adequate funding for civil legal services delivery and has actively worked in the Legislature to encourage increased funding. In 1994, the MSBA led efforts to form Minnesotans for Legal Services, a broad-based organization whose mission is to ensure that people throughout Minnesota are kept informed about legal services developments in Washington and St. Paul so that they can advocate with members of Congress and the state Legislature in support of legal services.

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[15] ABA 1994 Harrison Tweed Award Nominee Information Sheet for Minnesota State Bar Association, at p. 4.

[16] For additional history and description of pro bono in Minnesota, see McCaffrey, "Pro Bono in Minnesota: A History of Volunteerism in the Delivery of Civil Legal Services to Low Income Clients," Law & Inequality 13:77 (1994).

A. Rule 6.1. The organized bar and local legal services providers should encourage all lawyers to meet their obligation under revised Rule 6.1 to donate 50 hours of legal services annually, primarily to the disadvantaged, and to make direct financial contributions to local legal services providers.

To respond to the unmet need for legal services, Minnesota lawyers and their professional organizations recently have moved aggressively to increase the amount of voluntary legal services for the disadvantaged. The MSBA's petition to the Minnesota Supreme Court to amend Rule 6.1 of the Minnesota Rules of Professional Conduct was granted on December 11, 1995, to be effective on January 1, 1996. This Committee recommended that the Supreme Court adopt the MSBA's petition, and the Committee co-chairs submitted a letter to the Court conveying its support, before the Court's November 15, 1995 hearing on Rule 6.1.

The revisions strengthen the Rule by stating an aspirational goal of 50 hours of volunteer service per year, the substantial majority for the disadvantaged, and giving a clear definition which focuses on legal services to persons of limited means. The Rule also encourages lawyers to contribute money to legal services providers as well as donating volunteer time. The Committee supports the MSBA's LAD Committee in its plans for an extensive statewide educational campaign, in cooperation with local bar associations and local volunteer attorney programs, to acquaint lawyers with revised Rule 6.1 and to encourage them to comply with the aspirational goal. Written materials have already been prepared. The LAD Committee and MSBA staff will work with local programs on expanding the availability of volunteer legal services as well as on fundraising from individual private lawyers.

B. Strengthen Support for Volunteer Attorney Programs. Volunteer attorney programs should continue to be well funded so that there are adequate means at the local level to match client needs with volunteer lawyers. The MSBA should provide additional technical support to assist local programs with fundraising and increasing donated legal services.

1. Background

Organized volunteer attorney programs cover all 87 Minnesota counties. The structure in Minnesota that enables this effective and efficient involvement of the private bar is paid for in large part with LSC funds. Over 1,700 private lawyers donate legal services through the Coalition programs' volunteer and judicare programs, donating legal services valued well in excess of $3.5 million each year. These volunteer programs cover 78 of Minnesota's 87 counties. Volunteer lawyer services in the other nine counties are coordinated by five free-standing programs. While these organizations receive some funding from LSC grantees, they are managerially separate and obtain funding from other sources, such as LTAB, LSAC, county boards, and donations from local lawyers and law firms. These programs are Legal Assistance of Dakota County, Legal Assistance of Olmsted County, Legal Assistance of Washington County, Volunteer Attorney Program of Duluth, and Volunteer Lawyers Network. They are described in Appendix B.

For many years, private lawyers in Minnesota have also contributed financially to legal services providers. They now contribute approximately $500,000 each year through the SMRLS Campaign for Legal Aid, The Fund for the Legal Aid Society of Minneapolis, the Hennepin County Bar Association's Annual Bar Benefit and Volunteer Lawyers Network Silent Auction, the District 21 (Anoka County) Bar Association's and the Itasca Bar Association's annual giving, and other local fundraising activities.

The American Bar Association has issued a Pro Bono Challenge to the nation's 500 largest law firms, asking them to dedicate three to five percent of their billable hours annually to pro bono legal services, primarily to the disadvantaged. In Minnesota, 11 law firms, with approximately 1,000 lawyers, collectively, have accepted the Challenge. The Minnesota response is the highest percentage response in the country.

In addition to donating time and money, individual private lawyers also handle many cases at reduced fees for people whose incomes are slightly over the limits for free representation. If program funding is reduced and private attorneys are expected to fill the gap by doing more free work for the poor, this may put pressure on them to increase their fees for middle-income clients who already have difficulty affording representation. This could be especially true for small firms and solo practitioners, many in rural areas and many of whom are already under growing financial pressure.

Even before the creation of structured volunteer attorney programs, the bar acknowledged that its responsibilities included providing free legal services to people in need. Lawyers throughout Minnesota continue to provide such services directly as well as through the organized programs. It is difficult to determine how much service is provided informally. As law practice becomes more specialized and fewer lawyers engage in general practice, it may be more difficult for individuals needing free assistance to find a lawyer directly and organized volunteer programs may assume increased importance. Also, the organized programs provide a mechanism to ensure more equitable distribution of the uncompensated work, as well as a way to find representation for clients who approach a lawyer directly but whom that lawyer cannot assist. The organized programs provide lawyers with training in poverty law and the special needs of low-income clients, malpractice coverage for cases taken through the programs, mentors, and many other support services.

2. Steps to Strengthen Volunteer Attorney Programs.

Not only do low-income people need to be far better informed about their legal rights and about the availability of legal services, but the private bar, legislators, and the public also need to understand better the severity of the unmet need for low-income legal services, especially in areas beyond family and housing law. While many private lawyers already are contributing time, "in general, too few are asked to give too much. While they are surprisingly very successful in what they are able to accomplish, it is clear that they need [more] ... assistance."[17] Lawyers

[17]November 10, 1995, memo from Rep. Sherry Broecker to the Committee.

particularly need additional training on how to work effectively with low-income clients and in substantive poverty law. Even with the number of lawyers currently volunteering, there are some bottlenecks caused by insufficient staffing. As more lawyers volunteer more hours, considerable additional resources will be needed to screen the clients, match them with willing lawyers, and ensure that lawyers taking cases receive needed training and materials. In much of rural Minnesota, virtually every private lawyer is volunteering time already. In these areas, there are no more private lawyers to ask.

The Committee recommends that continued attention be given to the volunteer attorney programs to ensure that there is an adequate system to match the volunteer lawyers and the low-income clients. A portion of any increase in funding must be available to the volunteer attorney programs through which lawyers provide direct volunteer legal services to the poor.

Given the increase in critical legal needs and cuts in federal and other funding, the need for volunteer lawyers will increase. With the implementation of revised Rule 6.1, and continuing expansion of the ABA Pro Bono Challenge, the number of lawyers volunteering their time should also increase, as will the need to train and supervise volunteer lawyers and match them with clients. With some of the restrictions that Congress is imposing on the type of cases handled by LSC-funded programs, the disadvantaged who cannot be served by LSC programs will turn increasingly to the private lawyers. New approaches will need to be devised to engage more private lawyers in areas in which they have previously not routinely volunteered, for example, in complex litigation and public policy areas.

The Committee also recommends that the MSBA increase the resources it devotes to providing technical assistance to the volunteer attorney programs, as well as the other legal services providers. The MSBA, as a statewide organization of lawyers, is in a unique position to provide such support. This could include:

- improving approaches to fundraising from law firms and individual lawyers, especially by programs and in geographical areas in which this is not already being done.

- developing materials for programs to use in encouraging planned giving.

- encouraging law firms to place lawyers in fellowships with legal services providers for several months or for particular projects. This is sometimes known as rotation of volunteer lawyers or "lend-a-lawyer" and has been done successfully in several places around the country.

- assisting with grant proposals to community funds and foundations.

C. Reporting of Pro Bono. The MSBA's Legal Assistance to the Disadvantaged Committee should be encouraged to develop a system for measuring the activities undertaken by Minnesota lawyers in order to establish a baseline for that activity, to encourage more lawyers to participate, and to evaluate whether efforts to increase such activity are successful.

In 1990, the MSBA asked the Supreme Court to implement mandatory reporting of volunteer legal services and financial contributions to legal services providers. At that time, the Court issued an order strongly encouraging pro bono but declining to implement mandatory reporting. Since 1990, the Texas State Bar implemented voluntary reporting of pro bono and the New York State Bar conducted an extensive pro bono survey. Most recently, the Florida Supreme Court implemented mandatory reporting of pro bono time and financial contributions to legal services providers along with adoption of a rule similar to 6.1 setting an aspirational goal for pro bono hours or a specific dollar amount to be contributed in lieu of the hours. Since then, contributions of time and money have increased dramatically in Florida.

At the November 15, 1995, hearing on the MSBA's petition to amend Rule 6.1, the justices asked several questions about how the success of the revised rule might be measured and whether the MSBA had again considered the reporting of pro bono. Those questions were consistent with frustrations this Committee has experienced over the past four months. The Committee knows that a great deal of volunteer work is being done by lawyers in Minnesota, far in excess of the $3.5 million which is donated through the Coalition program volunteer components. However, it has proven impossible to come up with any reliable number. The Committee believes it is important that the Supreme Court, the Legislature, and the public have clear information on the extent to which lawyers in Minnesota are helping to address the unmet need for legal services. This Committee believes that the time is ripe to reconsider the idea of some form of reporting in Minnesota. The LAD Committee is in the best position to undertake such a review, consider the pros and cons of what has been done elsewhere, and recommend a process.

D. Private Fundraising Initiatives. The bar should encourage and support fundraising initiatives undertaken by the legal services providers.

Revised Rule 6.1 states that in addition to donating time, "a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means." As noted above, Minnesota lawyers are already doing a great deal in this area. However, with increased need for services to the poor comes increased responsibility on lawyers to help meet that need. The Committee therefore recommends that all lawyers in Minnesota give increased encouragement and support to private fundraising initiatives by the legal services and volunteer attorney programs throughout the state.

E. Lawyer Trust Account Interest. The MSBA and the Lawyer Trust Account Board should work together to encourage Minnesota banks to restore the interest rates on lawyers' trust accounts to earlier levels. Even a one percent increase would substantially increase the revenue available for distribution to legal services programs.

As described in Section IIIA above, the MSBA, Minnesota banks, and the Supreme Court worked together in the early 1980s to create the Interest on Lawyers Trust Account program which is administered by the Lawyer Trust Account Board. The revenue available for LTAB grants has shrunk by over 50 percent in the past four years largely due to the fall in interest rates. Interest rates paid by banks on IOLTA accounts on December 31, 1995 are approximately 20 percent of what they were in 1987, while the prime rate charged by banks is 105 percent of what it was in 1987.[18] In 1993, most Minnesota banks responded favorably to a request that service charges and transaction fees on these trust accounts be waived. The Committee recommends that the MSBA and the LTAB work together to encourage Minnesota banks to restore the interest rates on lawyers' trust accounts. Even a one percent increase would substantially increase the revenue available to LTAB for distribution to legal services programs. With IOLTA income averaging just under $1 million a year, a one percent increase would generate another $1 million a year.

F. Attorney Registration Fee Increase. To ensure that all lawyers assume an increased part of the responsibility for funding legal service providers, beyond the voluntary financial contributions that many individual lawyers already make, the Supreme Court should be petitioned to increase the annual lawyer registration fee by $50 for lawyers practicing more than three years, and $25 for lawyers practicing three years or less, with the increase going to the Legal Services Advisory Committee for allocation to legal services providers, including volunteer attorney programs.

Although the Committee believes that lawyers are not solely responsible for meeting the unmet need for civil legal services, lawyers are the gatekeepers of justice, and should take the lead. Lawyers in effect have a monopoly, as only they can provide legal advice and represent parties before the courts. Lawyers in Minnesota are already donating over $3.5 million in legal services each year through the Coalition programs alone, with considerably more legal services donated directly and through other organized programs. Lawyers are also already making financial contributions of over $500,000 each year directly to legal services providers. While these contributions are impressive, the Committee believes that all lawyers should assume an increased part of the responsibility for funding legal services.

The Committee recommends that the Supreme Court adopt in 1996 an increase in lawyers' annual registration fees of $25 for all lawyers not otherwise exempt, and $50 for lawyers admitted over three years. The funds could be distributed through the Court's Legal Services Advisory Committee pursuant to Minn. Stat. §§ 480.24 et seq., which provide that at least 85 percent of the funds go proportionately to the six programs which together serve the entire state, and the

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[18]IOLTA rates were 5.25 percent in 1987, and 1.01 percent on December 31, 1995. The prime rates were 8.1 percent in 1987, and 8.75 percent on December 31, 1995.

balance of up to 15 percent be distributed through grants to programs serving eligible clients, including the volunteer attorney programs.

The Committee believes that **all** lawyers, not just those already volunteering time and/or contributing money, have an obligation to help ensure that all Minnesotans have meaningful access to justice. There are over 20,000 registered lawyers in Minnesota. Of these, over 17,000 are practicing, 2,452 are nonresidents, 755 are retired, and 100 are in the armed forces. The current registration fee is $142; those admitted less than three years pay $42.

In discussing the amount of the increase in registration fees, the Committee initially considered a $100 increase. After learning of the Lawyers Professional Responsibility Board plans to petition the Court for an increase of $20 per year to support its operations, and of other possible fee increases, the Committee scaled back its recommended increase. The Committee's recommendation of an increase in attorney registration fees of $50 for lawyers practicing more than three years, and $25 for those practicing for three years or less is the equivalent of only half an hour of most lawyers' billable time. This amount, a dollar a week, does not seem unreasonable. The Committee notes that it represents one percent of the aspirational standard set forth in revised Rule 6.1 of the Rules of Professional Conduct, recently adopted by the Supreme Court.

The Committee discussed the petition filed with the Supreme Court by the MSBA in 1982 for a one-time $25 increase in the attorney registration fee, also to support civil legal services. That petition was denied by the Court without an opinion. Arguments were presented to the Court at that time with respect to the constitutionality of such a fee. The Committee recognizes that the outcome of a petition for a fee increase is uncertain. However, the Committee believes that ensuring access to justice for the poor is an integral part of the role of lawyers and judges in the judicial system. It is as essential to the integrity of the profession and the healthy functioning of the judicial branch of government as continuing education of lawyers, eliminating discrimination within the bench and bar, creating a client security fund to protect clients against theft by their lawyers, and enforcement of the disciplinary rules, all of which have been adopted by the Court, and carry mandatory direct or indirect costs for lawyers. In 1987, the Supreme Court created the Client Security Fund assessment in the face of constitutional objections similar to those raised in 1982. The Committee believes that the Supreme Court, within its constitutional responsibility to oversee the judicial branch of government, has the power to take steps to ensure that all citizens have access to that branch of government, including steps which impose a cost on lawyers, who enjoy a legal monopoly as gatekeepers to the justicial system.

The Committee does not expect to file a petition with the Supreme Court to request this increase until summer of 1996. The Committee believes that it is important for the Minnesota State Bar Association to have an opportunity to consider this report and the Committee's recommendations. While the Committee strongly supports this recommendation, the Committee recognizes that concerns exist about such a fee increase, including its possible impact on bar association memberships and on efforts to increase donations of time and money by lawyers. However, many Committee members received significant positive feedback at the local level in informal discussions before the Committee voted in favor of this recommendation. The Committee

believes that widespread discussion of the proposal at the local level, including consideration of the critical and growing unmet need for legal assistance, will generate support for the recommendation.

G. Conclusion.

Lawyers have a special responsibility to help ensure that all people have access to our system of justice. Many have demonstrated, with both time and money, that they are willing to do their part. More needs to be done, and **all** lawyers need to be involved. However, the entire burden cannot and should not fall on their shoulders. By way of comparison, private doctors are not expected to meet all the medical needs of the poor without pay. Access to justice is fundamental to our system of government, and all Americans have a stake in securing respect for the law. This cannot happen unless the system is both just and accessible to all citizens, rich or poor.

VII. RECOMMENDATIONS TO THE LEGISLATURE

Access to justice is a fundamental right of all citizens, rich and poor. It can be persuasively argued that this right follows very closely behind the basic human needs for safety, food, clothing, shelter and primary medical care. In fact, the mission of the legal services programs is primarily to help clients meet those basic needs.

The Committee is convinced that the judiciary, the legal services staff and volunteer programs and the private bar in Minnesota will continue to work diligently to improve the efficiency with which legal services are delivered to low-income Minnesotans and to increase the level of volunteer efforts by Minnesota lawyers. The Committee is, however, equally convinced that better-funded, stable legal services programs are essential to delivering legal services to low-income Minnesotans. To achieve the necessary level of funding to support the legal services delivery system in Minnesota, including the volunteer attorney programs, the Committee recommends a partnership effort by the lawyers of Minnesota and the Legislature. The Committee believes the following proposals provide a structure for ensuring at least a minimum level of funding for the five-year period commencing in 1996.

The Committee requests that funds appropriated from the general fund for legal services be increased as follows:

•The appropriation base for civil legal services should be increased by $900,000 for the fiscal year which begins on July 1, 1996, bringing the annual base amount to $5,907,000.

•The appropriation base for civil legal services should be increased by $1,000,000 for the fiscal year which begins July 1, 1997, bringing the annual base amount to $6,907,000.

•The appropriation base for civil legal services should be increased by $1,500,000 for the fiscal year which begins on July 1, 1999, bringing the annual base amount to $8,407,000.

The proposed increases, if implemented, will offset the current and pending 1996 LSC funding losses. If no further losses occur in the next few years, these increases would also significantly reduce the unmet need, which carries a serious cost to our State. They would also provide a stable funding base, leaving Minnesota's low-income citizens less vulnerable to the effects of unpredictable political changes on the national level.

Because the Committee believes that providing access to civil justice for all people, like access to criminal justice, is a fundamental responsibility of our society, the Committee does not believe that appropriations should be increased only if a new revenue source is created. The funding of the judicial system in Minnesota (Supreme Court, Court of Appeals, trial courts and civil legal assistance) represents only about one percent of the state budget. The Committee notes that the following revenue sources exist or could be created by the Legislature:

•The State has a projected surplus in the general fund in excess of $500,000,000.

•The fee for filing certain real estate documents could be increased by $2, as was done in 1992. This would generate $1.8 million per fiscal year.

•The fee for filing civil court lawsuits could be increased by $8. This would generate $1.1 million per fiscal year.

•The renewal filing fee for professional corporations could be increased by $75 per year. This would generate $290,000 per fiscal year.

The Committee considered the pros and cons of several possible funding sources:

General fund surplus:

Pro: It would not require imposition of any new fee or tax. It would not require reduction of funding to any other program below current levels. Legal services efforts provide direct benefits to the taxpayers by generating revenues and by enhancing the economic self-sufficiency of many clients.

Con: The Legislature will face many competing proposals for portions of the surplus. There will be disagreement about whether the surplus should be used at all, and about whether it should be used to soften the impact of federal funding cuts.

Real estate filing fees:

Pro: A $2 fee represents a nominal burden spread across a large number of persons. Such a small fee will not deter anyone from carrying out the transactions which are subject to the surcharge. Over 20% of legal aid cases are housing-related. Legal aid work prevents homelessness through preventing illegal evictions and preventing foreclosure of family homes. Legal aid work keeps families on their farms. Legal aid protects property values by forcing landlords to maintain their properties.

Con: These filing fees have already been raised twice to support legal aid funding. Filing fee increases are borne not by all taxpayers but only by those involved in real estate transactions.

Civil filing fees:

Pro: All the taxpayers subsidize court users. Filing fees offset only a small portion of the actual cost of a civil case. The small burden on court users is more than offset by the benefits of providing access to the judicial system to thousands of low-income Minnesotans.

Con: Filing fees have been raised significantly since 1982, and are higher than the national average. Filing fee increases are borne not by all citizens but only by court users. The Supreme Court and the Legislature in 1989 determined that a significant portion of the court system would be transferred from county to state funding. The funding source for that transfer of funding responsibility is court fees identified in Minn. Stat. § 357, including the civil filing fee.

Professional corporation renewal filing fees:

Pro: A $75 increase would generate $290,000 per year from groups generally able to afford it, many of whom are lawyers, and almost all of whom receive benefits from the state in excess of the filing fees they pay.

Con: This proposal would generate spirited opposition from many professional groups, making any related appropriation more controversial than legal services funding has been in the past.

Sales tax on lawyers' services:

The burden of several of the Committee's recommendations, including increased volunteer legal services, the registration fee increase, and the civil filing fee increase, will fall in whole or in part on lawyers. For this reason and others, the Committee believes that a sales tax on lawyers' services would not be a good idea. Among the Committee's concerns about a sales tax on legal services were: encouraging use of out-of-state counsel, burdening clients already in financial trouble, exempting in-house corporate counsel, and discouraging people from seeking legal advice. These concerns are addressed more fully in Appendix F.

Other possible funding sources:

The Committee believes that there may be other revenue sources and encourages the Supreme Court, the Legislature, the bar, and the legal services programs to continue to explore all possibilities.

VIII. CONCLUSION

Minnesota's longstanding tradition of supporting access to justice is deeply ingrained in the history of the state and embodied in its Constitution:

> Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws. (Minnesota Constitution, Art. I, Sec. 8)

Access to a lawyer is essential to the effective and efficient functioning of our treasured system of justice. But in Minnesota, even before the anticipated federal funding cutbacks, there is less than one lawyer for every 3,000 low-income Minnesotans, while there is one lawyer for every 265 persons in the general population.

Legal services staff and volunteer attorneys, working together last year, were able to serve only about one-fourth of low-income Minnesotans who needed assistance, but their work:

- helped to stabilize families, maintain communities, and make society safer;
- saved taxpayers money;
- prevented legal problems which would otherwise further clog the courts, and increase costs; and
- helped people become self-sufficient and participate effectively in society.

Federal funding cutbacks for legal services promise to severely curtail the availability of legal counsel. Low-income Minnesotans seeking justice wait patiently, like the smallest child in line at the drinking fountain, hoping that when their turn finally comes, someone will be there to lift them up, to help them reach.

Justice is a compelling human need. When the essential becomes inaccessible, powerful forces cause adverse actions. Consequences from denials of access to justice are great: violence, multi-generational family dysfunction, increased financial and physical dependence, deprivation, depression, desperation, and death.

This Committee's members, appointed by the Supreme Court to represent the Legislature, the federal and state Judiciary, private and public lawyers, legal services staff and the public, have devised recommendations for enhancing access to justice through funding changes and actions affecting all the represented groups. The recommendations reflect both common commitment and shared sacrifice, and a partnership approach among Minnesota's lawyers, the courts, and the

Legislature to replacing funds lost through the federal funding cut backs and to meeting the legal needs of our most needy citizens.

As federal traditions alter or falter, Minnesota values remain. The Committee recommendations will help continue the state's proud principles of justice: giving protection to the vulnerable, dignity to the elderly, opportunity to the children, support to the impaired, hope to the hopeless.

Finally, the Committee recommends that the Supreme Court continue the Committee's existence, at least through 1996, to allow the Committee to work to implement its recommendations.

Respectfully submitted,

JOINT LEGAL SERVICES ACCESS AND
FUNDING COMMITTEE

APPENDIX A

Committee Members

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Daniel Gislason, Attorney at Law
Gislason Doslund Hunter & Malecki P.L.L.P.
New Ulm

Catharine Haukedahl, Attorney at Law
Felhaber, Larson, Fenlon, & Vogt, P.A.
Minneapolis

John Jackson, Attorney at Law
Minnesota Bankers Association
Minneapolis

Jarvis Jones, Attorney at Law
The St. Paul Companies
St. Paul

Sen. David Knutson
Burnsville

Charles Krekelberg, Attorney at Law
Krekelberg Law Firm
Pelican Rapids

David Kuduk, Managing Attorney
Legal Aid Service of Northeastern Minnesota
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Bricker Lavik, Attorney at Law
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Rep. Darlene Luther
Brooklyn Park

William Mahlum, Attorney at Law
Mahlum & Associates, P.A.
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Genevieve Morales
Blooming Prairie

john powell, Executive Director
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Steven Reyelts, Attorney at Law
Halverson Watters Downs Reyelts & Bateman
Duluth

Judge James Rosenbaum
United States Court
Minneapolis

Mary Schneider, Executive Director
Legal Services of Northwest Minnesota
Moorhead

Jan Smaby
Independent Consultant
Shoreview

Judge John Stanoch
Fourth Judicial District
Minneapolis

APPENDIX B
MINNESOTA'S CIVIL LEGAL SERVICES PROVIDERS

MINNESOTA LEGAL SERVICES COALITION PROGRAMS

The Coalition programs provide a full range of civil legal services to eligible clients in all 87 Minnesota counties through staff lawyers and paralegals and judicare and volunteer lawyers. All receive a portion of their funding from the federal Legal Services Corporation. The descriptions that follow do not take into account layoffs and attrition that have taken place since both because of the 1995 rescission of LSC funds and the need to anticipate the deeper 1996 cuts. See Section IIIA, page 13, for information on recent and anticipated staffing changes.

Anishinabe Legal Services (ALS) serves low-income persons who reside on the Leech Lake, Red Lake and White Earth Reservations in northern Minnesota. An estimated 14,500 people are eligible for services. The median income in five of the seven counties is at least $5,000 below the statewide median. Most ALS clients live in remote, rural locations; many do not have telephones or transportation. Their legal needs include Indian law/Indian Child Welfare Act, tribal law/tribal courts, education, Social Security, housing, discrimination, and elder issues. First priority is given to cases that involve both poverty law and Indian law. ALS staff practice in state, federal and Tribal courts, as well as before administrative and tribal agencies.

ALS employs four lawyers, two paralegals, and two administrative/support staff. ALS closed 734 cases in 1994.

ALS has no separate volunteer attorney program because the service area overlaps those of LSNM and LASNEM. ALS often refers clients to those programs for representation. Very few private lawyers have offices on the reservations served by ALS.

ALS receives 62 percent of its financial support from LSC.

Judicare of Anoka County (JAC) serves low-income residents of Anoka County. An estimated 16,900 people are eligible for services. JAC is a combined staff and judicare program, employing two lawyers, two paralegals and two administrative/support staff. The staff administers the program (including client intake, eligibility screening and referral) and provides representation to clients in more traditional poverty law cases. The program closed 1,711 cases in 1994.

A panel of private practitioners are referred cases in which they have expertise; they are paid $40 per hour (about one-half the usual rate) by JAC up to a set maximum. JAC has approximately 60 lawyers on its panel handling about nine cases per lawyer per year.

The local bar association asks that each member annually contribute five hours of uncompensated time or $150 to JAC.

JAC receives 25 percent of its financial support from the LSC.

Legal Aid Service of Northeastern Minnesota (LASNEM) serves low-income residents of Northeastern Minnesota. Offices in Duluth, Brainerd, Grand Rapids, Pine City and Virginia serve an eleven-county area. An estimated 81,500 people are eligible for the program's services. A judicare panel serves Koochiching County, LASNEM's most distant county. Outreach offices are staffed in Hibbing, Ely, Mora, Walker, Inger, Squaw Lake, Ball Club, Sandstone and Cass Lake.

LASNEM staff consists of 19 lawyers, six paralegals and 18 administrative/support staff. LASNEM's judicare panel consists of nine lawyers; another 28 lawyers participate in the Brainerd office's volunteer attorney program. LASNEM closed 9,132 cases in 1994. Approximately 17 percent of LASNEM's clients are seniors, 70 percent are female-headed households, and 7 percent are members of minority groups.

In 1981, LASNEM and the 11th District Bar Association jointly organized the now separately incorporated Duluth Volunteer Attorney Program. That program won the National Legal Aid and Defender Association's Harrison Tweed award in 1982, and it continues to be recognized nationally as a model volunteer program with very high participation by local lawyers.

LASNEM receives 32 percent of its financial support from the LSC.

Legal Services of Northwest Minnesota (LSNM) serves low-income residents of 22 counties covering approximately 25,000 square miles in the rural northwest quadrant of Minnesota. An estimated 79,700 people are eligible for services. The population density overall is about 15 persons per square mile. Only three cities exceed 10,000 population. The median household income is substantially lower than the state average. Twelve counties are among the twenty poorest in the state.

Services are provided by offices located in Moorhead, Bemidji, and Alexandria. The Moorhead office provides program administration. Board-approved plans for a fourth office with four staff people to serve six northwestern counties are unlikely to go forward given the federal funding cuts.

The program provides legal services to low-income people and senior citizens through a combined staff and judicare system. Under judicare, private lawyers on the LSNM panel are reimbursed by LSNM at about 40 percent of their usual rate ($35 per hour with maximum fees set for certain types of cases). In 1994, approximately 46 percent of the cases were handled by the judicare lawyers; the remaining 54 percent were handled by the three staffed offices.

LSNM has seven lawyers, five paralegals, and 7.5 administrative/support staff. Volunteers, law

clerks and legal assistant interns are also used extensively. Staff provides administrative support, including client intake, eligibility screening and referral. Staff do individual representation primarily in public housing, government benefits and family law cases, and provide training, support and research for panel lawyers. LSNM also provides community education through both staff and judicare lawyers.

Approximately 260 lawyers in the LSNM service area (about two-thirds of the local lawyers) participated in the LSNM judicare program in 1994, averaging 10.3 cases per lawyer. LSNM closed 5,742 cases in 1994. In the past seven years, LSNM has seen an 83 percent increase in its case load. Approximately one million dollars each year in lawyer time is donated by LSNM judicare panel members.

LSNM receives 38 percent of its financial support from the LSC.

Mid-Minnesota Legal Assistance (MMLA) provides legal advice and representation to low-income clients in 20 counties in central Minnesota, through offices in Minneapolis (3), St. Cloud, Cambridge and Willmar. An estimated 206,900 people are eligible for services. Efforts to increase access for especially disadvantaged clients have been made by securing funding for senior citizens projects, the Community Legal Education Project, the Minnesota Mental Health Law Project, the Legal Advocacy Project for Developmentally Disabled Persons, Protection and Advocacy for Individual Rights, the Housing Discrimination Law Project, and the Family Farm Law Project. One component of MMLA, the Legal Aid Society of Minneapolis, was founded in 1913. MMLA delivers services for Central Minnesota Legal Services (CMLS), the LSC grantee, on a reimbursement contract basis. MMLA currently employs 68 lawyers and 24 paralegals as well as 41.5 administrative/support staff. The statewide Legal Services Advocacy Project, which provides legislative and administrative representation, is part of MMLA.

MMLA closed 11,891 cases in 1994. Approximately 67 percent of MMLA clients are women, 32 percent are minority group members and 19 percent are senior citizens.

MMLA enjoys strong support from local bar associations, law firms and client groups. Since 1982, The Fund for the Legal Aid Society has raised over $3.4 million from private lawyers and corporations for the Minneapolis component of MMLA. The local volunteer attorney program in Hennepin County, with over 500 active panel members, has had a referral relationship with the Legal Aid Society of Minneapolis for over 25 years. In addition, approximately 350 lawyers participate in volunteer attorney programs administered by MMLA's local offices.

MMLA receives 20 percent of its financial support from the LSC.

Southern Minnesota Regional Legal Services (SMRLS) was established in 1909 as the Legal Aid Bureau of Associated Charities in St. Paul. SMRLS provides representation to low-income residents of 33 counties in southern Minnesota and to migrant farmworkers throughout Minnesota and North Dakota, through offices in St. Paul, Mankato, Winona, Albert Lea, Worthington, Prior Lake, Fargo, N.D. and the Administrative/Program Support Office in St. Paul. An estimated

242,400 people are eligible for services. Each office has a senior citizens project and an active volunteer attorney project. Outreach offices are located in the Officina Legal/Immigration Reform Project, the American Indian Center and the Cambodian Legal Services Project in St. Paul. SMRLS also uses a number of circuit-riding and "growing season" offices throughout Minnesota. Special efforts to address unmet needs have been made by securing funding for SMRLS's immigration, family law, farm law and Cambodian Legal Services projects. In 1994, SMRLS received new funding for the Homeless Outreach Prevention and Education Project through Americorps, and initiated the Education Legal Advocacy Project in collaboration with Hamline Law School, using Innovative Law School Clinic funds from LSC.

The Minnesota Legal Services Coalition State Support Center is part of SMRLS.

SMRLS employs 57 lawyers, 30 paralegals, and 36 administrative/support staff. SMRLS closed 14,429 cases in 1994. Approximately 64 percent of SMRLS clients are women, 15 percent are senior citizens, 24 percent are disabled persons, and 15 percent are limited English speaking. In 1994, 36 percent of SMRLS clients were minority. Other innovative SMRLS programs include the SMRLS/3M Corporate Pro Bono Program, the first of its kind in the upper Midwest; the SMRLS Futures Planning, Diversity and Priority Setting processes which are regarded as national models; and its Campaign for Legal Aid and other fundraising work.

SMRLS has strong working relationships with local bar associations, lawyers, and client groups. It has enlisted close to 600 private practitioners in its volunteer attorney programs administered locally out of each SMRLS branch office. Over 1,200 lawyers have made a financial contribution to the Campaign for Legal Aid.

SMRLS receives 35 percent of its financial support from the LSC.

OTHER VOLUNTEER AND STAFF PROGRAMS IN MINNESOTA

Several other programs in Minnesota provide legal assistance to low-income persons in civil cases through staffed offices and/or volunteer lawyers. Most provide services in single counties or to special populations. Generally, the programs actively cooperate with the Coalition programs and each other and work to eliminate duplication of services.

INDEPENDENT VOLUNTEER ATTORNEY PROGRAMS

There are five independent volunteer legal services programs in Minnesota which are not directly affiliated with the LSC-funded programs. While these organizations, receive some funding through LSC grantees, they are managerially independent and obtain funding from other sources, such as the Lawyers Trust Account Board, the Legal Services Advisory Commission and donations from lawyers and law firms. A brief description of these five programs follows:

Volunteer Lawyers Network (VLN) Founded in 1966, formerly known as The Legal Advice Clinics, Ltd., and working in association with the Hennepin County Bar Association, VLN is the primary volunteer lawyer organization in Hennepin County. VLN's mission is to reach out to the economically disadvantaged in Hennepin County and provide them with quality legal services by volunteer lawyers. VLN receives approximately 15,000 calls for assistance each year. Paid, largely non-lawyer staff screen the calls for eligibility and arrange for assignment of a volunteer lawyer. If there is not a legal problem, VLN attempts to assist the caller with a referral to an appropriate alternative agency. VLN has a roster of approximately 2,300 lawyers who have agreed to be available for various types of cases. In the fiscal year ending June 30, 1995, VLN reported that approximately 3,500 matters were accepted for referral to a lawyer, and VLN volunteers reported closing approximately 1,800 cases. VLN also provides support services to its volunteers, including regular CLE seminars in poverty law areas such as family and housing law, form books and computerized forms, mentoring and other services. VLN works closely with the Legal Aid Society of Minneapolis which provides staff and limited volunteer services in Hennepin County.

Staffing at VLN has not increased in the last eight years in spite of the increase in the need of the disadvantaged for legal services.

Legal Assistance of Olmsted County (LAOC) LAOC has been providing legal services to low-income residents of Olmsted County since 1973 through its office in Rochester. LAOC's purpose is to provide access to the judicial system to persons who would otherwise be denied it. LAOC's two full-time staff lawyers provide direct services, which consist primarily of family law (80 percent), tenants' rights(8 percent) and other cases including some government benefits (12 percent). LAOC also coordinates the volunteer lawyer program for Olmsted County. In 1994, 930 persons were served by staff. Over 100 cases were referred to the 54 volunteer lawyers on the LAOC panel, and another 200 existing volunteer cases were completed. LAOC works closely with the SMRLS office in Winona which also provides staff services in Olmsted County.

Legal Assistance of Washington County (LAWC). LAWC was founded in 1972 to provide legal services in civil matters to Washington County residents without means to retain private counsel. LAWC's in-house staff of two lawyers in Stillwater provides direct representation to clients; 78 volunteer lawyers also handle legal matters for clients. LAWC's caseload has increased dramatically. In 1993 LAWC handled 148 in-house cases; in 1994 this increased to 189. Similarly, in 1993 LAWC handled 205 volunteer and co-counsel cases; the number increased in 1994 to 265. LAWC staff also handled 434 advice-only matters in 1994. In 1994, LAWC provided 1,853 referrals, an increase of 324 from 1993. Services are primarily in the area of family law (85 percent). Other areas include Social Security, landlord/tenant and debtor's rights. LAWC works closely with SMRLS, which also provides staff services in Washington County through its St. Paul office.

Legal Assistance of Dakota County (LADC). LADC was founded by the Dakota County Bar Association in 1973 to provide free legal services to low-income residents of Dakota County through its office in Apple Valley. Since 1983, LADC has maintained the volunteer attorney program in Dakota County. Ninety-nine participating lawyers handled 49 new cases in 1994, with

22 cases carried over from 1993. The highest priority at LADC is family law problems (96 percent), including dissolution of marriage, custody and visitation, child support and domestic abuse matters. The program also handles some landlord/tenant and tort defense cases. LADC has a staff of four including two lawyers. Each year LADC closes approximately 200 contested cases. LADC works closely with SMRLS, which also provides staff services through its Prior Lake office.

Volunteer Attorney Program and Northland Mediation Service-Duluth. VAP-Duluth administers a free-standing volunteer attorney program providing the full range of civil legal services to residents of St. Louis, Cook, Lake, Itasca and Carleton Counties. There are two non-lawyer staff people. The goal of the Volunteer Attorney Program is to provide legal services to those people who cannot be represented by staff in the Legal Aid Service of Northeastern Minnesota offices in Duluth, Virginia and Grand Rapids with which VAP works closely. VAP clients are either those with whom Legal Aid has direct conflicts or clients Legal Aid cannot serve. Representation includes advice, brief service, representation before a court or administrative body, preparation of legal documents and negotiation of settlements. VAP volunteer lawyers handle approximately 550-600 cases each year. VAP-Duluth also runs Northland Mediation Service, KIDS First, and a pro se divorce program in the Duluth area.

OTHER PROGRAMS

Centro Legal provides civil legal representation to the Hispanic and low-income communities in the Twin Cities metropolitan area, and occasionally outside the Twin Cities if staff is available. All staff are bilingual. Principal areas of expertise include immigration, family law and the intersection between the two. Services are tailored to meet the legal needs of the working poor and are available either free or at very low cost based on a sliding-fee schedule. Centro's Proyecto Ayuda serves victims of domestic abuse. The new Legal Protection for Children program provides free legal services to abused or neglected Hispanic children. Centro was created in 1981, in partnership with SMRLS, in an effort to diminish the impact on Hispanic clients of reduced federal funding for legal services. SMRLS shares office space with Centro's St. Paul office. Centro also has a Minneapolis office.

Chrysalis Legal Assistance for Women in Minneapolis provides information, advice and lawyer referrals to women in the greater metropolitan area, primarily in family law. The information and advice is provided by volunteer lawyers. Referrals are to lawyers who expect to be paid for their work. Some offer reduced fees. There are no financial eligibility guidelines for clients, who are asked to make a small contribution to the program.

The **Farmers' Legal Action Group** in St. Paul provides free legal services statewide to financially distressed family farmers including staffing a tollfree phone advice line, publishing a quarterly substantive newsletter, and providing training and legal backup for legal aid staff, farm advocates, and lawyers who provide volunteer and reduced fee services to financially distressed family farmers. FLAG works closely with other Minnesota Family Farm Law Project staff who provide services to clients through Coalition program offices.

The **Indian Child Welfare Law Center** in Minneapolis, incorporated in 1993, focuses on preservation of Indian families by representing extended family members in proceedings governed by the Indian Child Welfare Act, Heritage Preservation Act and Indian Family Preservation Act. Legal advocacy is coordinated with Indian family services. The Center coordinates with public defender offices and other civil legal services providers as appropriate.

The **Indian Legal Assistance Program** in Duluth primarily provides representation to Native Americans residing in the Duluth area as well as on the Fond du Lac and Nett Lake Reservations in criminal and juvenile matters as an alternative to the public defender system in Northeast Minnesota. The program also offers limited civil representation.

Lao Family Community of Minnesota's Legal Aid Program in St. Paul assists low-income Southeast Asian refugees and immigrants with immigration law for the purposes of family reunification and provides some civil legal services. The program, which has a single lawyer, coordinates closely with SMRLS.

Legal Assistance to Minnesota Prisoners (LAMP) in Minneapolis provides civil legal services to inmates at Shakopee, Stillwater, St. Cloud and Sandstone prisons. Coalition programs generally do not provide legal assistance to persons incarcerated in these institutions because of the availability of the alternative LAMP program. LAMP is run by the State Public Defender's Office and involves law students in a clinical program.

Legal Rights Center, Inc. (LRC) in Minneapolis is a criminal and juvenile defense program which provides an alternative to the public defender for Hennepin County residents. There is close cooperation between LRC and the Legal Aid Society of Minneapolis.

Minneapolis Age and Opportunity Center (MAO) provides free or sliding-fee legal services to persons over 55 years of age primarily in Hennepin, Ramsey and Anoka Counties. Staff participate in the Coalition's Statewide Seniors Task Force and coordinate with Coalition programs in the metro area.

Minnesota Advocates for Human Rights in Minneapolis runs a statewide refugee and asylum project which involves volunteer lawyers in representing indigent asylum seekers who have fled persecution in their home countries. The program coordinates with other groups that provide immigration law services and with Volunteer Lawyers Network.

The **Minnesota AIDS Project Legal Program** provides legal information, advice and representation to persons with HIV-related legal issues by using volunteer lawyers coordinated by a full-time lawyer. The program works closely with Volunteer Lawyers Network and SMRLS in the metro area and with other programs throughout Minnesota as appropriate.

The **Minnesota Justice Foundation**, housed at the University of Minnesota Law School, coordinates pro bono services by students at all three Minnesota law schools. MJF provides free

law clerks to volunteer lawyers, student interns to legal aid providers and other public interest agencies, and free law student assistance with legal research and writing for volunteer lawyers and legal aid staff statewide.

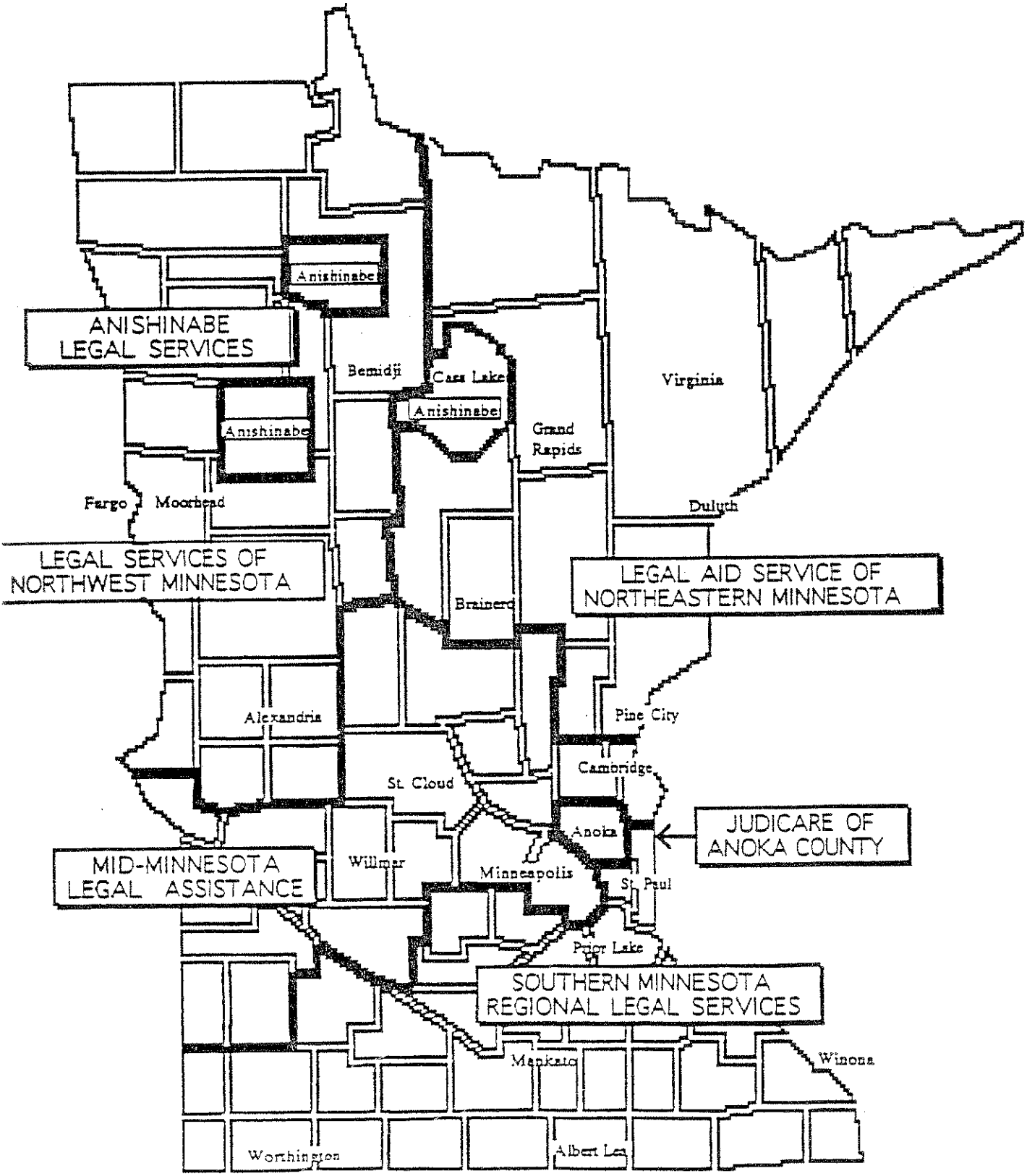
The **Minnesota Volunteer Attorney Program of the Minnesota State Bar Association,** housed at the MSBA's Minneapolis office, provides substantive law materials including monthly Family Law Updates, a Volunteer Attorney Desk Manual, and the twice-monthly MLSC Newsletter to volunteer and judicare lawyers statewide. MVAP also provides other technical assistance and support services to local volunteer attorney program coordinators and volunteer and judicare lawyers.

Neighborhood Justice Center, Inc. (NJC) was originally developed by community groups with the assistance of Legal Assistance of Ramsey County (now SMRLS). NJC primarily provides representation to indigent persons in criminal and juvenile matters as an alternative to the public defender system in Ramsey County.

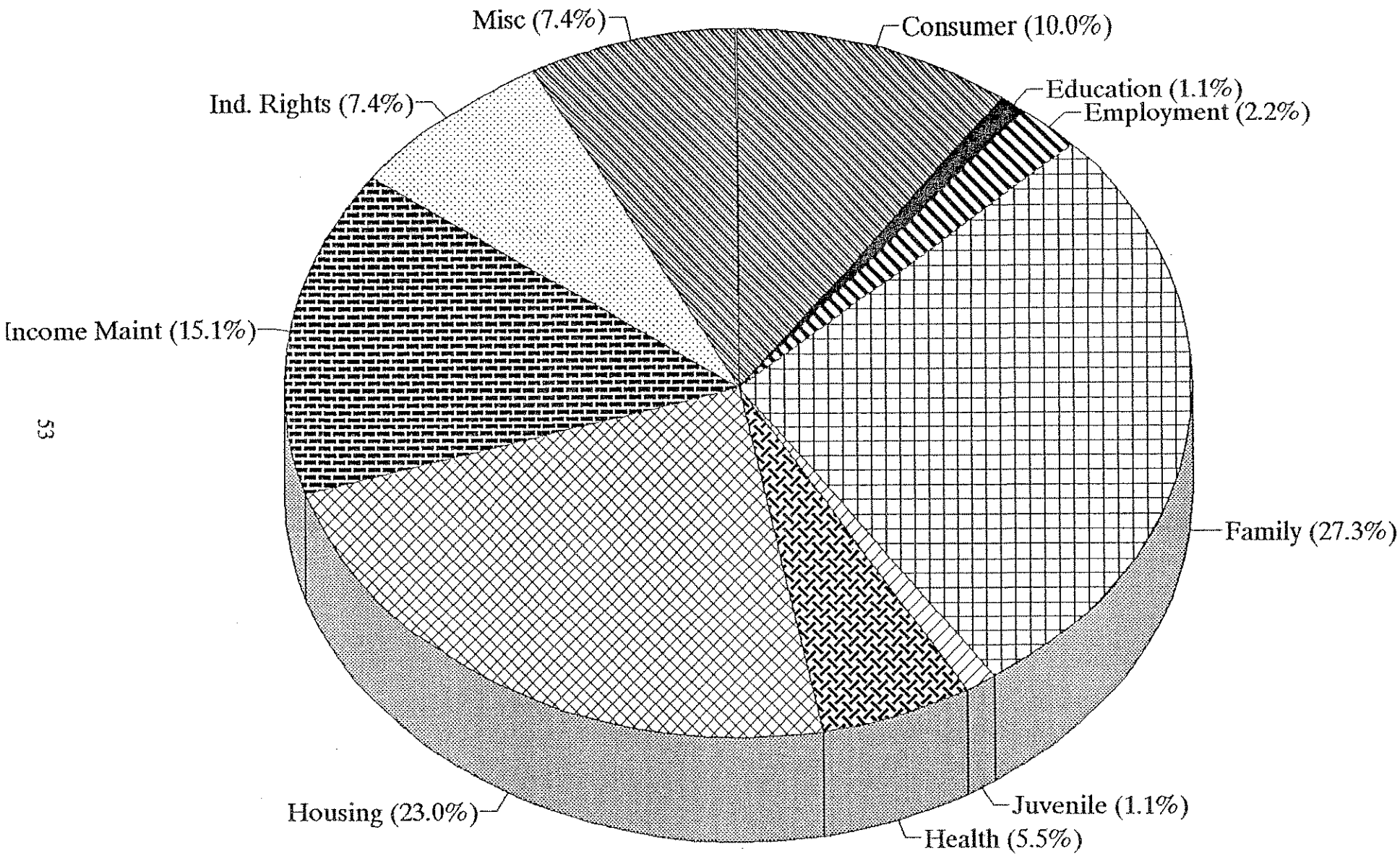
United Cambodian Association of Minnesota in St. Paul has a legal program for Cambodian families which provides civil legal services and community legal education. The program is closely coordinated with SMRLS.

The **University of Minnesota Law School, William Mitchell College of Law** and **Hamline University Law School** conduct clinical law programs for students that result in some services to low-income persons in civil matters. All three programs work cooperatively with SMRLS and the Legal Aid Society of Minneapolis.

MINNESOTA LEGAL SERVICES COALITION PROGRAMS



Types of Problems Handled by Minnesota Legal Services Coalition Programs



1994

Low-Income Population in Minnesota LSC Program Service Areas
Based on 1990 Census for Persons Below 100% of Poverty Level

	County	Persons Below 100% Poverty 1990	Total by Program 1990	Per Cent by Program 1990
Judicare of Anoka County	Anoka	12815	12815	2.667%
Legal Services of Northwestern Minnesota	Becker	4866		
	Baltrami	7770		
	Clay	7355		
	Clearwater	1841		
	Douglas	3753		
	Grant	915		
	Hubbard	2539		
	Kitson	677		
	Lake Woods	427		
	Mahnomen	1286		
	Marshall	1494		
	Norman	1120		
	OtterTail	6997		
	Pennington	2114		
	Polk	4498		
	Pope	1451		
	Red Lake	675		
	Roseau	1667		
	Stevens	2016		
	Traverse	654		
	Wadena	2783		
Subtotal-LSNWM	Wilkin	805	57703	12.009%
Legal Aid Service of Northeastern Minnesota	Carlton	3484		
	Cook	414		
	Kanabec	1960		
	Lake	970		
	Pine	2983		
	St.Louis	27201		
	Itasca	6362		
	Koochiching	2067		
	Aikin	2289		
	Cass	4621		
Subtotal-LASNEM	Crow Wing	6518	58869	12.252%
Mid-Minnesota Legal Assistance	Hennepin	93388		
	Benton	3028		
	Sherburne	3213		
	Stearns	13824		
	Wright	4615		
	Chisago	2336		
	Isanti	2190		
	Mille Lacs	2540		
	Morrison	4667		
	Todd	4379		
	LacQuiParle	1129		
	Lincoln	1052		
	Lyon	2737		
	YellowMedic	1692		
	Big Stone	914		
	Chippewa	1661		
	Kandiyohi	5164		
	Meeker	2199		
	Renville	2233		
Subtotal-MMLA	Swift	1477	154438	32.142%

Low-Income Population in Minnesota LSC Program Service Areas
Based on 1990 Census for Persons Below 100% of Poverty Level

	County	Persons Below 100% Poverty 1990	Total by Program 1990	Per Cent by Program 1990
SMRLS	Dakota	11730		
	Goodhue	3216		
	Ramsey	53897		
	Washington	6212		
	Dodge	1178		
	Fillmore	3004		
	Houston	1604		
	Olmstead	7155		
	Wabasha	1635		
	Winona	5621		
	Freeborn	3320		
	Mower	3671		
	Steele	2023		
	Carver	2288		
	Rice	3791		
	Scott	2350		
	Blue Earth	9281		
	Brown	2177		
	Faribault	1993		
	Lesueur	2027		
	Martin	2660		
	McLeod	2375		
	Nicollet	2257		
	Sibley	1476		
	Waseca	1646		
	Watonwan	1387		
	Cottonwood	1701		
	Jackson	1342		
	Murray	1353		
	Nobles	2291		
	Pipestone	1506		
	Redwood	2167		
	Rock	1172		
Subtotal-SMRLS	Migrant	35377	186883	38.894%
Anishinabe Legal Services	*		9782	2.036%
		470708	480490	100.000%

Estimated Migrant count adopted by Legal Services Corporation
Estimated Anishinabe count based on BIA counts.
08-Jan-96
Source: News Release, MN Planning May 29,1992

APPENDIX C
FACTORS AFFECTING LEGAL SERVICES FOR INDIAN PEOPLE RESIDING ON RESERVATIONS

A number of factors make it more difficult and expensive to provide legal services to low-income Indian people residing on reservations than to other populations of poor people. These factors include:

1. **Physical Isolation:** Reservation residents frequently live in geographically remote locations. People may live either by themselves, or in small, isolated villages. Many do not have telephones, reliable cars, or home mail delivery. It can sometimes take weeks to make contact with a client. Outreach efforts are particularly difficult and time consuming.

2. **Cultural Barriers:** Traditionally, many Indian people work to avoid conflict. They frequently are more likely to accept a given negative situation instead of insisting on their "rights", which could be viewed as socially unacceptable complaining. Also, Indian people may be particularly distrustful of the dominant culture's institutions, including the legal system. People are often aware of the legal system's historic role in the theft of their land and attacks on their culture. These factors make it difficult for advocates, particularly non-Indians, to develop the trust necessary to adequately represent a client. The trust issue also impacts on a legal services program's ability to develop positive community relations.

3. **Special Legal Problems:** Unlike any other minority group in the U.S., Indian people are subject to a distinct body of law known as federal Indian law. Federal Indian law is a framework of federal statutes and court decisions dating back to the founding of the country. It can impact any civil legal problem, turning an otherwise routine case into one with complex jurisdictional or other legal issues. Because Indian law is essentially federal law, certain types of cases need to be pursued in federal courts, which are often located hundreds of miles from a client's reservation. The complexities of federal Indian law are such that expertise must be developed over a period of time; it cannot be learned by reference to a legal encyclopedia or treatise. Legal services staff or private lawyers who are unfamiliar with federal Indian law will be unaware of issues that can significantly impact a client's case.

4. **Language Barriers:** Some Indian people have no or limited English fluency. Others, who may speak English, use the language in a different way than law-trained non-Indians. The result is often difficulty in communication that adversely affects representation in two ways: the client may be unable to describe the problem in a way which the advocate can readily understand. Also, the advocate may have great difficulty in explaining the legal process and the substantive issues involved in a client's case. This two-way difficulty makes it difficult for staff inexperienced in working in Indian communities to adequately represent their clients.

Prepared by Anishinabe Legal Services.

APPENDIX D
MINNESOTA STATUTES
LEGAL SERVICES PROGRAMS

480.24. Definitions

Subdivision 1. Terms. As used in sections 480.24 to 480.244, the terms defined in this section have the meanings given them.

Subd. 2. Eligible client. "Eligible client" means an individual that is financially unable to afford legal assistance, as determined by a recipient on the basis of eligibility guidelines established by the supreme court pursuant to section 480.243, subdivision 1.

Subd. 3. Qualified legal services program. "Qualified legal services program" means a nonprofit corporation which provides or proposes to provide legal services to eligible clients in civil matters and which is governed by a board of directors composed of attorneys-at-law and consumers of legal services. A qualified legal services program includes farm legal assistance providers that have a proven record of delivery of effective, high-quality legal assistance and have demonstrated experience and expertise in addressing legal issues affecting financially distressed family farmers throughout the state.

Subd. 4. Recipient. "Recipient" means a qualified legal services program that receives funds from the supreme court to provide legal services to eligible clients.

Subd. 5. Nonprofit regional alternative dispute resolution corporation. "Nonprofit regional alterative dispute resolution corporation" means a nonprofit corporation which trains and makes available to the public individuals who provide fact-finding, conciliation, mediation, or nonbinding or binding arbitration services.

480.242. Distribution of civil legal services funds to qualified legal services programs

Subdivision 1. Advisory committee. The supreme court shall establish an advisory committee to assist it in performing its responsibilities under sections 480.24 to 480.244. The advisory committee shall consist of 11 members appointed by the supreme court including seven attorneys-at-law who are well acquainted with the provision of legal services in civil matters, two public members who are not attorneys and two persons who would qualify as eligible clients. Four of the attorney-at-law members shall be nominated by the state bar association in the manner determined by it, and three of the attorney-at-law members shall be nominated by the programs in Minnesota providing legal services in civil matters on July 1, 1982, with funds provided by the federal Legal Services Corporation in the manner determined by them. In making the appointments of the attorney-at-law members, the supreme court shall not be bound by the nominations prescribed by this section. In making appointments to the advisory committee, the supreme court shall ensure that urban and rural areas of the state are represented. The supreme court shall adopt by rule policies and procedures for the operation of the advisory committee including, but not limited to, policies and procedures governing membership terms, removal of members, and the filling of membership vacancies.

Subd. 2. Review of applications; selection of recipients. At times and in accordance with any procedures as the supreme court adopts in the form of court rules, applications for the expenditure of civil legal services funds shall be accepted from qualified legal services programs or from local government agencies and nonprofit organization seeking to establish qualified alternative dispute resolution programs. The applications shall be reviewed by the advisory committee, and the advisory committee, subject to review by the supreme court, shall distribute the funds received pursuant to section 480.241, subdivision 2, to qualified legal services programs or to qualified alternative dispute resolution programs submitting applications. The funds shall be distributed in accordance with the following formula:

(a) Eighty-five percent of the funds distributed shall be distributed to qualified legal services programs that have demonstrated an ability as of July 1, 1982, to provide legal services to persons unable to afford private counsel with funds provided by the federal Legal Services Corporation. The allocation of funds among the programs selected shall be based upon the number of persons with incomes below the poverty level established by the United States Census Bureau who reside in the geographical area served by each program, as determined by the supreme court on the basis of the most recent national census. All funds distributed pursuant to this clause shall be used for the provision of legal services in

civil and farm legal assistance matters as prioritized by program boards of directors to eligible clients.

(b) Fifteen percent of the funds distributed may be distributed (1) to other qualified legal services programs for the provision of legal services in civil matters to eligible clients, including programs which organize members of the private bar to perform services and programs for qualified alternative dispute resolution, (2) to programs for training mediators operated by nonprofit alternative dispute resolution corporations, or (3) to qualified legal services programs to provide family farm legal assistance for financially distressed state farmers. The family farm legal assistance must be directed at farm financial problems including, but not limited to, liquidation of farm property including bankruptcy, farm foreclosure, repossession of farm assets, restructuring or discharge of farm debt, farm credit and general debtor-creditor relations, and tax considerations. If all the funds to be distributed pursuant to this clause cannot be distributed because of insufficient acceptable applications, the remaining funds shall be distributed pursuant to clause (a).

A person is eligible for legal assistance under this section if the person is an eligible client as defined in section 480.24, subdivision 2, or:

(1) is a state resident;

(2) is or has been a farmer or a family shareholder of a family farm corporation within the preceding 24 months;

(3) has a debt-to-asset ratio greater than 50 percent;

(4) has a reportable federal adjusted gross income of $15,000 or less in the previous year; and

(5) is financially unable to retain legal representation.

Qualifying farmers and small business operators whose bank loans are held by the Federal Deposit Insurance Corporation are eligible for legal assistance under this section.

Subd. 3. Timing of distribution of funds. The funds to be distributed to recipients selected in accordance with the provisions of subdivision 2 shall be distributed by the supreme court no less than twice per calendar year.

Subd. 4. Repealed by Laws 1989, c. 335, art. 1 § 270(a).

Subd. 5. Permissible family farm legal assistance activities. Qualified legal services programs that receive funds under the provisions of subdivision 2 may provide the following types of farm legal assistance activities:

(1) legal backup and research support to attorneys throughout the state who represent financially distressed farmers;

(2) direct legal advice and representation to eligible farmers in the most effective and efficient manner, giving special emphasis to enforcement of legal rights affecting large numbers of farmers;

(3) legal information to individual farmers;

(4) general farm related legal education and training to farmers, private attorneys, legal services staff, state and local officials, state-supported farm management advisors, and the public;

(5) an incoming, statewide, toll-free telephone line to provide the advice and referral described in this subdivision; and

(6) legal advice and representation to eligible persons whose bank loans are held by the Federal Deposit Insurance Corporation.

APPENDIX E
TYPICAL MONTHLY CLIENT BUDGETS

These clients would receive Medical Assistance or GAMC. Non-prescription drugs and some medical transportation would not be covered. Only 25-35 percent of eligible clients curently currently receive a housing subsidy, and housing subsidy programs are suffering significant cuts in 1996.

Mother and Three Children (Lost her job -- missed work to care for sick children)
(Monthly AFDC grant $621 + $310 food stamps)

Rent	$495
Phone and electric	60
Heat	60
Clothing (including diapers)	75
Food	320
Laundry	30
Transportation	50
Personal incidentals*	40
TOTAL	$1,130
NET LOSS	-$199

Mother and Two Children
(Working 40 hours/week @ $6/hour. Take home pay $772/month. No benefits.)

Rent (including heat)	$450
Phone and electric	90
Food	200
Clothing	50
Laundry	35
Transportation (bus pass)	60
Personal incidentals*	30
Child Care (relatives)	0
Other (babysitting)	20
TOTAL	$935
NET LOSS	-$163

*Including toiletries and sanitary supplies, household supplies, school supplies, non-prescription medicine.

Single Disabled Person (Former construction worker with back injury)
(Monthly General Assistance grant $203 + $99 food stamps)

Rent (including heat & electric)*	$180
Bus Card**	60
Clothing from garage sales/thrift	10
Personal incidentals	7
Food	99
Household furnishing/items	7
Laundry expense	17
TOTAL	$380
NET LOSS	-$78

Single Elderly Person in Rural Minnesota***
(Monthly Supplemental Security Income Grant: $470 + $111 food stamps)

Rent	$250
Heat & electric (no phone)	100
Food	130
Clothing	10
Laundry	15
Social services (10% goes to representative payee)	45
Personal (toiletries, cleaning supplies, haircuts, hired transportation, P.O. Box, cable tv)	73
TOTAL	$623
NET LOSS	-$42

*Few GA recipients are able to afford a telephone.

**Because most GA recipients are unable to afford a bus card, they often need more money for clothing such as good walking shoes, boots and outerwear. In rural areas, they need to hire transportation.

***While rents may be somewhat lower in rural Minnesota, public transportation is generally not available. TV is available only on cable. There are almost no free haircutting services, very few free clothing distribution sites, and far fewer food shelves with more demands on limited resources.

APPENDIX F
SALES TAX ON LAWYERS' SERVICES

There are a number of reasons Minnesota should not adopt a sales tax on the professional services of lawyers.

•A tax on legal services would encourage clients to use professional services from outside the state. This is especially true of border communities and sophisticated clients. Legal services are "portable" and professionals performing these services can easily move to another state which does not impose a sales tax. Such a tax would give out-of-state firms a competitive advantage with the result of potential loss of jobs and income tax revenue.

•A sales tax on legal services would place a burden on those already having financial problems. Clients seeking legal advice on dissolution of marriage, bankruptcy, child support, landlord/tenant matters, debt collection and other similar cases are those who can least afford to pay an additional charge. A substantial portion of legal services are provided directly to individuals at a time of hardship in their lives. A tax on legal services would increase the hardship on individuals already faced with difficult circumstances. Moreover, a sales tax is not based on ability to pay and the burden falls more heavily on those with lower incomes, and who have the same need for legal services as wealthier individuals. The result is an inequitable tax burden on lower income individuals.

• A sales tax on legal services would discourage people from seeking legal advice. Increasing the cost of legal services may make some people less willing to seek legal advice at times when such advice is necessary. The result would be fewer people exercising their legal rights.

•The tax is a "misery" tax. Rather than taxing discretionary spending, the tax is on essential expenses. For instance, it would compel an abandoned spouse to pay a tax on a lawyer's help to win support payments for her children. It would also impose a tax on people who wish to protect their families by drawing a will. People would also have to pay the tax to recover from someone who negligently hurt them, or to obtain consumer relief. Workers' compensation benefits would be taxed, as would the buying and selling of a home. Finally, the defense of basic legal rights, whether it be in criminal or civil court, would also be taxed.

•A tax would impair pro bono services, which the government is urging lawyers to supply partly to replace tax supported legal services to the disadvantaged. To the extent lawyers lose business to in-house counsel or out-of-state firms, or are forced to lose income by absorbing the sales tax or lose income because citizens simply avoid the system and its taxes, then the time those lawyers now spend on pro bono service and other volunteer services to the community and justice system will be shifted to earning a living.

•Corporate in-house legal services would not be subject to this sales tax because of the exclusion for employee services. The result would be discrimination against small businesses which cannot afford in-house lawyers.

•The consumers or users of legal services are in the main not wealthy individuals or companies. Of the corporate consumers, the overwhelming majority are small business people.

•In the enforcement of a sales tax, the state will have to determine to what extent legal services performed are consumed within Minnesota. An effective sales tax audit would thus likely include an examination of the nature of the services performed. An audit of a lawyer's client fund account and administering the tax would violate the lawyer-client privilege.

•A sales tax has the potential of tremendous financial impact on practicing lawyers, especially if the tax is due when the client is billed.

•An individual will pay several taxes for one legal transaction, including filing fees, inheritance and transfer tax, real estate transfer tax and others.

•The American Bar Association, Sales and Use Tax Subcommittee Report, August 3, 1990, concluded that professional services, such as law, are not amenable to a sales and use tax. This is based primarily on the principles that sales and use taxes on services should treat equally the in-state and out-of-state providers of competing services, and sales and use taxes on services should follow generally defined concepts of sales and use tax law applicable to the sales and storage, use or consumption of tangible personal property.