



THE FULL ACCESS FINANCIAL SCORECARD FOR STATE ACCESS-TO-JUSTICE COMMUNITIES

by Ken Smith, Martha Bergmark, and Wayne Moore¹

Full Access to Justice is within our reach. It is a “stretch goal” that every state justice community can strive for. As we outline in this article, some states are now generating more than half the funding they would need to provide Full Access. They are within sight of an historic achievement, and they provide a blueprint for the rest of us. Eliminating the “Full Access Gap” in every state is the challenge of the 2000s.

Full Access is within Our Reach.

“Full Access” means access for low income people, everywhere, to the level of legal help one needs to function as a responsible member, not a victim, in our society. Full Access is achievable. We believe that some communities are well down that road. By the end of the current decade, we believe that several states will have achieved Full Access.

Getting there means that people are in action on three fronts:

- Resource development
- Delivery systems engineering
- Leadership building

We call these the “cornerstones” of a Full Access vision.

Resource development

We can secure the resources needed to bridge the gap between where we are today and what is needed to achieve Full Access. We can already see the results that can be achieved when a state leadership group sets bold funding goals and commits itself to a sustained effort over a period of 5–10 years to achieve them. In New Jersey, Massachusetts, Minnesota, Maryland and several other states, access-to-justice groups have succeeded in developing multiple funding streams for legal aid that

collectively exceed the federal (Legal Services Corporation (LSC)) contribution by a factor of two or three. These include state appropriations, filing fees, annual law firm campaigns, city and county funding, corporate funding, foundation grants and others. These groups have succeeded in turning on new funding streams to achieve total per-capita funding levels that are two to five times the levels that exist in states where leadership efforts are just getting started.²

Volunteer resources can also be dramatically increased. Pro bono participation by private lawyers typically runs at 10 to 20 percent of the eligible lawyers in a community, yet in places where strong recruitment efforts have been combined with innovative programs offering lawyers a wide range of opportunities, sustainable levels of 40 to 80 percent are being achieved. The gap between 10 percent and 80 percent represents an enormous latent resource waiting to be tapped in communities across the country.

Also, *non-attorney* volunteers are a significant untapped resource. Some programs use volunteers to fill a wide variety of support roles in outreach, intake, providing brief services, administration and clerical support. Successful volunteer programs leverage their dollar investment many times in supplemental staffing they contribute to legal aid programs.

The successes of individual states and local programs demonstrate the feasibility of generating levels of funding and volunteer resources that are two to five times what we have now. They show that the resources are out there. They invite analysis of why the things people are doing in these places are working. They create possibilities for the rest of us.

Delivery systems engineering

Assuming we could double the funding and volunteer resources that are available, how would we deploy those to achieve Full Access?

The gap between the resources we have now and what we'd need to help everyone with legal problems seems to grow while we struggle to replace funding sources that get cut back.

One answer is, we would do exactly what the most innovative and successful legal aid programs across the country are already doing to get more bang out of their bucks. We would:

- *Grow the core.* We would invest some of the new resources to improve and expand the core staff delivery model that since the mid 1960s has provided extended legal representation to low income clients through negotiation, individual court and administrative representation, appellate work, major litigation, community economic development and advocacy in legislative and administrative rulemaking forums. We would make these programs more cost-effective by launching new collaborative special projects addressing community-wide issues such as domestic violence. We would invest in higher attorney salaries to attract the best and brightest advocates to work in the new systems on behalf of the poor.
- *Deploy innovations.* We would invest additional new resources to grow the innovative new service delivery models that have emerged out of the funding shortages of the 1980s and 1990s. These include phone intake and advice systems, brief services units, courthouse self-help centers and technology-based systems for distributing legal education and self-help materials over the Internet. We would link these and the core staff delivery system together with a front-end intake system that matches each client problem with the least expensive delivery mechanism that produces sufficient results.³ We would base our choices about deploying delivery innovations on on-going evaluation of the success of these models.

Exhibit 1 illustrates how new delivery methods conceived during the 1980s and 1990s have built on the solid foundation of the core staff attorney model to

dramatically increase the numbers of people who can get an appropriate level of assistance to address legal problems affecting their families, homes, jobs, health and personal safety.

We believe that delivery system models are available that will *triple* the number of people whose legal problems can be solved with a given amount of funding. The knowledge is scattered among communities across the nation in the form of “best practice” models ready to be applied. Program managers and boards are gradually overcoming their skepticism about new methods and reaching a state of readiness to deploy these systems.

Leadership community building

The appearance of “state justice communities” may be the most significant innovation of the decade between 1995 and 2005. It has happened in several states, in different forms, at almost the same time. Maryland, Massachusetts, California, New Jersey, Minnesota and Washington have been early leaders.

The payoff is clear: These are the states near the top of the per-capita funding ranking (Exhibit 1). This did not happen because these are rich states. It happened because leaders came together to figure out how to turn on the funding streams it would take to address a bigger percentage of the legal needs their studies indicated were there but not being met. They committed to a bold vision. They gathered the data and built the case for getting funding from their state legislatures, state associations and law firms, city councils and county commissions. They marshaled the smart campaigns it took to build political support for the funding decisions that are turning vision into reality.

They have created a blueprint that others can follow. Their job is not finished, but as we'll see shortly, they are well down the road. Their leadership stories show it can be done. The rest of us can learn from the path they took. Building a leadership community in every state committed to Full Access is the challenge of the first decade of the 21st century.

Closing “The Gap”: A Financial Scorecard for Tracking a State's Progress Toward Full Access

It is a widespread belief that only about 20 percent of the legal needs of the poor are being met. This is consistent with what intake workers see each day. People with problems other than dire emergencies routinely have to be turned away or placed on wait lists. The 1993 American Bar Association Legal Needs Survey and state-level legal needs studies in the early 1990s con-

firmed what intake workers know. For every person accepted, several are turned away and many more don't bother to apply.

To many experienced legal aid workers, the goal of Full Access seems overwhelming. The gap between the resources we have now and what we'd need to help everyone with legal problems seems to grow while we struggle to replace funding sources that get cut back. If we are serving at best one-fifth of the people in need, where would we get the money to help the other four-fifths?

The mountain is not as high as it seems. Our growing ability to engineer more cost-effective delivery systems is one of two developments making Full Access a possibility. The other is the capacity of legal aid communities to generate new funding streams.

Already we can see the results of focused projects combining strategy with funding. Many programs, for example, have organized themselves into specialized units to meet specific emergency needs—securing protective orders for abused women, keeping families from being summarily evicted from their homes, getting disability benefits for people injured or too sick to work. In some communities legal aid programs are now meeting the need of every domestic violence victim seeking a protective order. With more funding, we could spread

these successes to other kinds of legal needs until all are met.

Some states have raised, and are now deploying, between four and five times the per capita funding of other states. In states where that resource development work is just beginning, a funding goal of four to five times what is currently being received should not seem out of the question.

How Big is the Full Access Funding Gap?

We believe that with an optimal mix of delivery models and some additional funding, leading states like Maryland are within reach of Full Access. We have developed below a measure of the Full Access funding needed, and the funding gap, for each state. To do that, we have applied estimates of how many legal problems each state's low income population has each year and the costs of delivering the assistance that is needed. The details are provided in a supplemental paper posted on the web site of The Resource for Great Programs, www.greatprograms.org.⁴ Below we carry out these two steps using Maryland as a sample, then apply the analysis to all 50 states.

1. *Number of legal problems.* Many studies were done in the early 1990s to quantify the numbers and

Exhibit 1 *More Bang for Every Buck as Delivery Innovations Go Mainstream.*

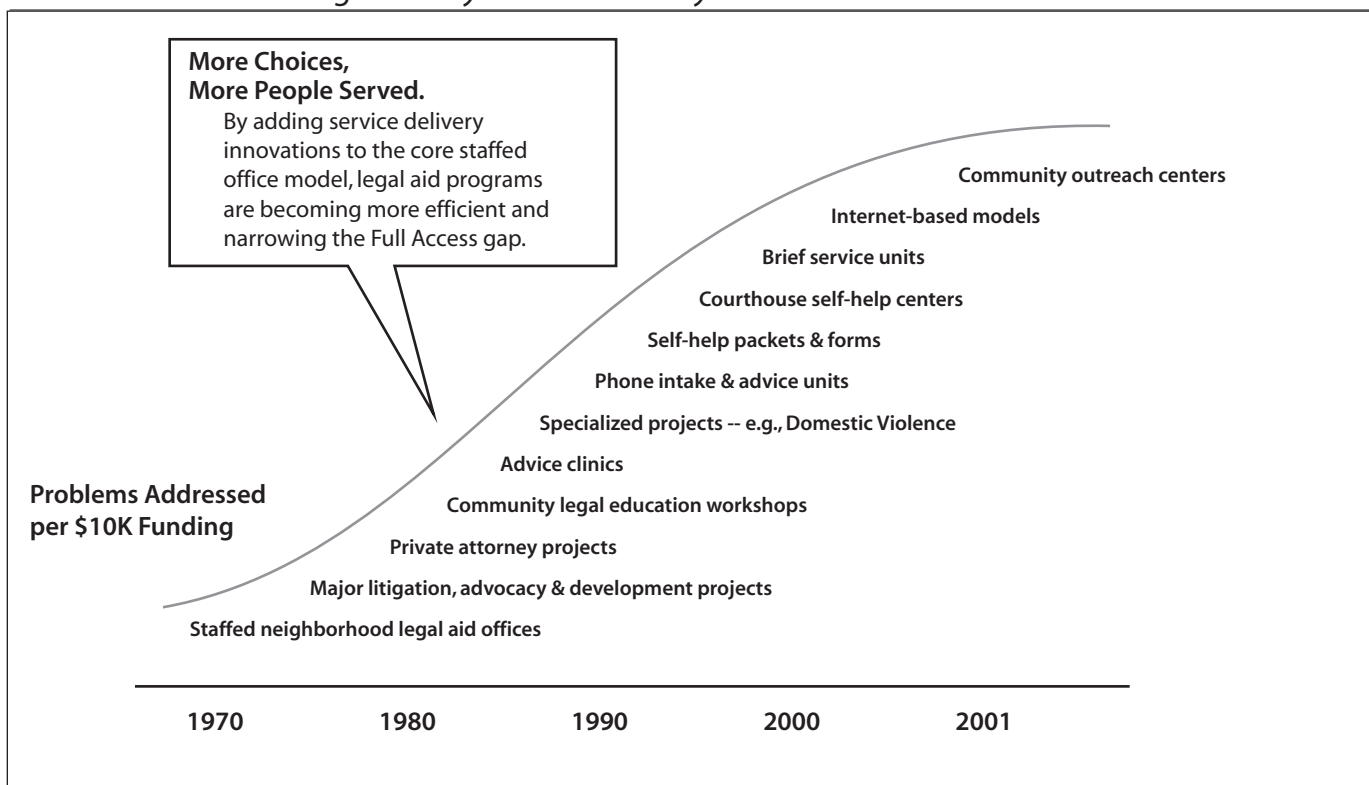


Exhibit 2 Estimate of total need for legal assistance in Maryland

Legal Problem Area	Problems per 100 **ABA Legal Needs Survey, 1993	Total Problems based on State Poverty Population
Financial/Consumer	17	25,100
Housing/Real Property	17	25,100
Community and Regional Problems	13	19,200
Family/Domestic	12	18,300
Employment-related problems	8	12,100
Personal/Economic injury	7	10,200
Health/Health Care-Related	7	9,600
Wills/Estates/Advance Directives	5	7,400
Public benefits problems	4	5,900
Small Businesses/farms	2	3,000
Children's Schooling	3	4,400
Other Civil Rights/Liberties	1	2,100
Misc.	4	5,100
<i>Total</i>	<i>101</i>	<i>148,500</i>

types of legal problems encountered by low income people. For example, the ABA completed a national legal needs study in 1993 finding that each year the total number of legal problems of the poor averaged 1.01 per household. Other studies showed similar results. The data from these studies enable us to make order-of-magnitude estimates of the total number of legal problems generated in a state based on its low income population, and to break down those figures by types of legal problems experienced. Exhibit 2 estimates that for Maryland's most vulnerable population the number is 148,500 legal problems per year based on the 1993 ABA study.

2. *Cost of meeting the "Full Access" level of demand for legal assistance.*

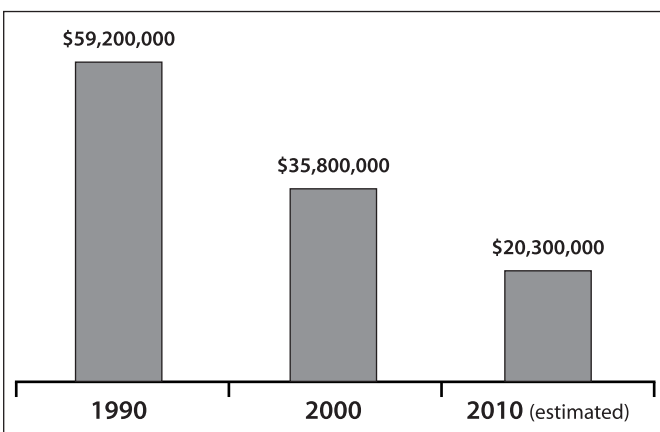
We can estimate the funding needed to address the number of problems we have identified. Exhibit 3 shows the results of our analysis. We have applied service cost benchmarks from the national data base of The Resource for Great Programs and our experience in developing and evaluating civil justice programs to estimate the cost of addressing 100,000 legal problems using a mix of different services — ranging from expert coaching on how to handle a legal problem oneself in small claims court to full legal representation in a complex matter.

The range of services we considered in this analysis are shown in Exhibit 1. Our fundamental assumption is that in a Full Access system, everyone with a legal problem is intercepted by an intake system that directs him or her to the least expensive type of assistance appropriate to his or her situation. Each type of service delivery system has a specific cost per "case" or "matter" associated with it, which we can estimate based on program and demonstration project data. By making assumptions about the percentage of problems that would be addressed with each level of service, we can estimate the total cost of handling 100,000 legal problems a year.

1990 cost. In 1990 there were essentially three delivery models that were widely used: staffed neighborhood law offices, organized pro bono projects, and compensated private attorney projects. Using national benchmarks for the service cost of each of these three models and assuming the percentage breakdown of 100,000 legal problems across the models, we estimate the total

Exhibit 3 Full Access Funding Needed to serve 100,000 households annually

Assuming best use of service delivery technologies available in 1990, 2000 and 2010



cost would be approximately \$59 million in 2000 dollars.

2000 cost. In 2000, there were more delivery models available, including legal hotlines, pro se assistance projects, and high-volume specialty projects. The figure shown in Exhibit # 3 is a theoretical figure derived by assuming that all the available models were deployed in a way that matched each of the 100,000 problems with the least expensive service method of addressing it. We get an estimate of approximately \$36 million per 100,000 problems handled.

2010 cost. Innovation in legal services delivery is accelerating, significantly driving down cost per problem addressed. By assuming an optimal deployment of 100,000 legal problems across these methods, we estimate that the total cost in 2010 would be slightly more than \$20 million (in 2000 dollars). This 2010 figure includes a 36 percent increase in average advocate salaries aimed at reducing attrition and attracting the kinds of highly qualified people that a Full Access system demands and legal aid clients deserve.

Exhibit 3 illustrates that the costs will fall dramatically as we fully deploy intake systems that match each client's problem with the least expensive method that is appropriate for addressing it, and expand the capacity of systems such as legal advice hotlines, brief service units, community outreach units and specialized projects that offer the most cost-effective ways of addressing particular types of problems. Exhibit 3 illustrates the theoretical impact of deploying all available best-practice methods in an optimal mix. We anticipate that all of the delivery system improvements shown in Exhibit 1 will be in wide use in legal services by 2010.

The Scorecard

Maryland is currently within 65 percent of the Full Access level for the state's poverty population. It is within 29 percent of the funding that would be needed to reach its actual goal of serving the poor and near poor population.⁵ According to Exhibit 3, it will take around \$20 million to fully address 100,000 legal problems per year using state-of-the-art, 2010 delivery methods. Exhibit 2 indicates that for Maryland's poverty population there are roughly 148,000 legal problems a year. Maryland's Full Access funding figure is therefore 148,000 divided by 100,000 times \$20 million, or \$30 million. At its current level of \$19.6 million, *Maryland is at 65 percent of Full Access funding.* By raising another \$10–11 million a year, and deploying the most efficient mix of service delivery systems, Maryland could provide Full Access to legal assistance for its poorest citizens.

Full Access funding amounts to approximately \$68 per eligible person.

The Full Access gap is a range. What we have calculated is a *lower* estimate of Full Access funding for Maryland — the amount it would take to help everyone at 100 percent of poverty who has a legal problem. States may seek to serve a much larger segment. Maryland, for example, has committed to serving not only the poor but the near-poor. The Maryland Legal Services Corporation (MLSC) defines income eligibility to be up to 50 percent of the state's median income. Under that definition, the eligible population numbers approximately one million, more than twice the 438,000 figure found at 100 percent of the Federal poverty guideline. To provide Full Access for that many people would cost \$68 million (\$68 per eligible person times one million people). Maryland is currently at 29 percent of that level.

Most legal aid programs set eligibility at between 100 and 175 percent of the poverty guideline. Maryland and other states that seek to serve people above the poverty guideline may require substantially more funding than we have indicated here.

We can use our analysis to produce an *upper* estimate of Full Access funding. At a 2010 cost of \$68 per eligible person, the amount needed to serve Maryland's one million eligible people would be \$68 million. As this analysis shows, the amount of funding needed for Full Access lies in a range. Maryland's definition "50 percent of median income" is probably as generous as any state's in the U.S. It sets an upper limit on the amount of funding needed by a state justice community to reach Full Access.

Application of the Full Access Scorecard to 50 States

Our analysis simply illustrates one approach for estimating the amount of funding needed to reach Full Access. Every state justice community can produce its own estimate of Full Access funding, based on the assumptions, legal needs data and eligibility criteria that capture reality in its community. According to our estimate, it would take \$68 per eligible person, deployed optimally across a mix of service delivery models, to provide Full Access. If a state is near the low end of the funding spectrum, around \$10 per person, it is generating 15–20 percent of what is needed. States near the high end, over \$50 per person, are well positioned to really begin closing the Full Access gap.

Closing the Gap: Where Will the Money Come From?

The 4 x 4 Commitment of the national leadership organizations and state justice communities

Eliminating the Full Access Gap is a financial commitment that the national leadership organizations (National Legal Aid and Defender Association, ABA, LSC, National Association of IOLTA Programs) and state justice communities can make together. It calls for a social contract among us to mobilize four “Partners for Full Access” in every state:

- The federal government
- State government
- The private bar
- The local community

Campaigns can be mounted to get from each partner an appropriate “share” of Full Access funding. As a goal, we are proposing that an appropriate share for each partner is *one-fourth*. “Four by four” — four partners, four equal shares. Our campaigns would, in effect, present each partner with an “invoice” for its share of meeting our society’s promise of *Justice for All*.

The Scorecard: How Much is Each Partner’s Share?

Breaking the Full Access price tag down into four parts makes the commitments of each partner manageable. It breaks it down into smaller campaigns, each with its own champions. The goal is not unrealistic; in fact, eight states are already more than halfway there. Moreover, it is equitable. No one partner has to carry more than its share of the load. No one partner has to lead the whole effort.

We can calculate the “4 x 4” price tag for each partner. For Maryland, our lower estimate of the cost of Full Access is \$30 million. Exhibit 4 indicates how this translates into “4 x 4” shares for the federal government, state government, the private bar and the local community. The four partners, and their share of the additional funding needed to reach Full Access are as follows:

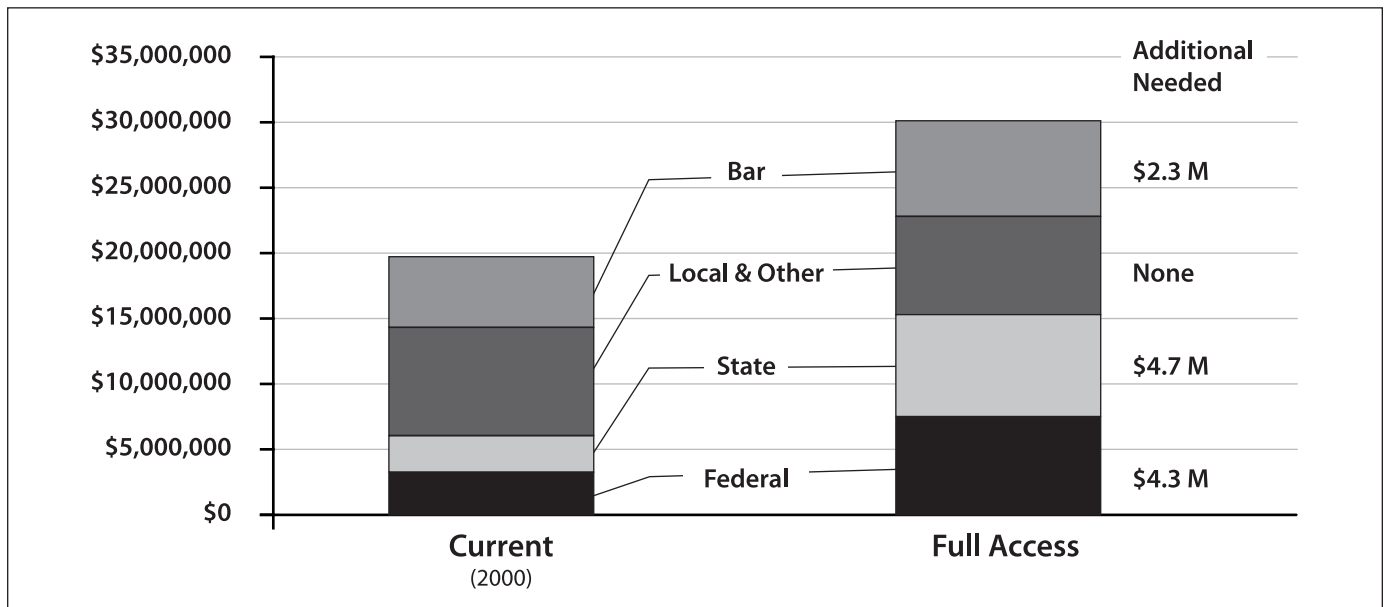
- *The federal government share: \$4.3 million more.* Currently, Maryland programs get \$3.2 million in federal funding. The Full Access level would be \$7.5 million. NLADA, LSC and ABA continue to lead efforts to preserve existing funding streams such as LSC and to develop new ones. Possibilities exist and

must be developed for further growth in federal funding. The example of federal VOCA and VAWA funding and how it has expanded legal aid’s ability to help domestic violence victims in recent years — while certainly fraught with challenges— points the way to growth in other areas through partnerships with federal programs in housing, health, transportation, employment and other areas. State leaders are already in action developing some of these partnerships and as a result beginning to get significant program dollars that contribute to the federal government share of Full Access.

- *The state government share: \$4.7 million more.* At \$2.8 million, Maryland is already demonstrating how a state leadership group can turn on state funding in the form of filing fees and other state funding streams. The additional state funding needed to reach a one-fourth share of Full Access is \$4.7 million. This presents a clear goal for further state funding campaigns.
- *The private bar share: \$2.3 million more.* Currently, Maryland programs get \$5.2 million from this source. The ABA, state bar associations and IOLTA programs have an opportunity to play a critical role in making *Justice for All* a reality by leading campaigns aimed at fulfilling the “private bar share” of Full Access. The opportunities here are many: traditional fundraising campaigns aimed at law firms, bequests, *cy pres*, IOLTA revenue enhancement campaigns with major banks, corporate donor campaigns and pro bono recruitment campaigns, among others.
- *The community share: well on the way!* At \$8.4 million, Maryland communities may be meeting their one-fourth share of Full Access funding, \$7.5 million. Local bar associations and local legal aid programs provide the leadership in generating funding from city and county governments, local foundations, local corporations, United Ways, and individual donors. They develop partnerships with community shelters, faith organizations, client groups, social agencies and community organizations to mobilize additional financial, in-kind and volunteer resources.

Full Access calls for a state justice community to have a “CFO function.” Every major enterprise has a Chief Financial Officer, and each state justice community

Exhibit 4 The 4 x 4 Financial Scorecard for Maryland



needs one. The CFO’s job is to forecast the funding needs of the enterprise, trigger the marketing efforts that these call for and manage the work that delivers the required financial results — that is, be accountable for the financial success of the enterprise. The “4 x 4 Full Access Financial Scorecard” is the radar screen of the State Justice CFO. It shows where each partner is in meeting its share of society’s promise of Equal Justice. The CFO uses it to manage the community’s campaign toward Full Access.

Conclusion: A New Accountability for State Justice Communities

Several states are well down the road to Full Access funding. They have the leadership in place to close the Full Access Gap. They provide a blueprint for the rest of us. The payoff will be realized as the new funds are invested in the people and delivery systems that will make Full Access a reality.

Our analysis simply illustrates one approach for estimating the amount of funding needed to reach Full Access. Each state justice community needs to have its own “Full Access Case,” based on the assumptions, legal needs data and definition of Full Access that community leaders can commit to.

Full access calls for a new accountability. State justice communities everywhere in the country can make the leap from a commitment to “restoring funding that has been cut” to “fulfilling the promise of Justice for All.” This is a measurable and achievable goal. It is the challenge of the decade ahead of us.

1 Ken Smith is president of The Resource for Great Programs, Inc., a consulting firm in Traverse City, Michigan providing strategic analysis and support for civil justice funders and legal aid programs. Martha Bergmark is Senior Vice President for Programs of the National Legal Aid and Defender Association and Director of the Project for the Future of Equal Justice. Wayne Moore is Director of Advocacy Planning and Issues Management for AARP.

2 Per capita funding levels range from \$11 to more than \$60 at the high end, with a median funding level of about \$20 per person in poverty.

3 For an outline of the delivery systems that we expect to be deployed over the next decade, see Wayne Moore’s paper, “The Future of the Delivery of Legal Services to Low-Income People,” in Management Information Exchange *Journal*, Summer 2002.

4 For details of our analysis, see, “Estimating Full Access Funding for Legal Aid for the Poor,” by Ken Smith and Wayne Moore. This paper is posted on the web site of The Resource for Great Programs: www.GreatPrograms.org.

5 By “poverty population,” in this analysis we are using 2000 Census figures for numbers of people in households at or below 100 percent of the Federal poverty guideline. States may seek to serve a much larger segment. Maryland, for example, has committed to serving not only the poor but the near-poor. The Maryland Legal Services Corporation (MLSC) defines income eligibility to be up to 50 percent of the state’s median income. Under that definition, the eligible population numbers approximately one million, more than twice the 438,000 figure found at 100 percent of the Federal poverty

guideline. The eligibility cutoff of most legal aid programs is 100 to 125 percent of the poverty guideline. Maryland and other states that seek to serve people above the poverty guideline may require substantially more funding than we have indicated here.

Our analysis shows that with 2010 best-practice delivery methods, 35 percent more funding could address all the legal problems of Maryland's poor living at or below 100 percent of the poverty guideline. Indeed, in 2000 Maryland legal aid providers addressed more than 108,000 legal problems, 73 percent of the 148,000 problems we estimate are experienced

by the poorest Marylanders each year. Yet this is not to say that Maryland is already at 73 percent of Full Access. As indicated in this note, Maryland defines eligibility to encompass more people with its legal aid dollars than almost any other state, so its definition of Full Access may require addressing many more legal problems than considered here. Moreover, many of those served currently may not get as much help from a lawyer as they need. Our analysis assumes that in a Full Access system, there is an intake system in place that diagnoses each person's problem, then directs the client to the least expensive type of legal assistance that is appropriate.

MANAGEMENT INFORMATION EXCHANGE Fundraising Consulting Services

Thinking about a Private Bar or Capital Campaign?

Want Help With Development of that First Campaign?

Need Assistance Raising Your Current Campaign to Another Level?

What About Training for Board and Staff?

You helped to energize and focus our staff and board members to work together to run a very successful private bar campaign. Because you have consulted with a number of legal services programs on private bar campaigns, our program was able to avoid making beginner mistakes in setting up our campaign. Possibly the most important message that you provide is that it is possible to raise money from lawyers because it has been done in many different places around the country.

— Joe Dailing, Executive Director,
Prairie State Legal Services

Without your help we would never have taken the leap to start a private bar campaign. We just held our first campaign kick-off and had over \$250,000 in lead gifts to announce toward our three year goal of \$1 million! We simply did not understand that it would be possible for us to raise that kind of money in our community. Thanks a million. Literally.

— Laurie Connors, Development Director,
Legal Services of Eastern Oklahoma

WANT MORE INFORMATION? Just contact Patricia Pap, MIE executive director, at 617-556-0288, or ppap@m-i-e.org; or Dennis Dorgan, MIE Director of Fundraising Consulting, at 651-699-4987, or ddorgan@earthlink.net.