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Legal Needs Studies and Public Funding for Legal Services: One State's Partial Success

Lonnie Powers

Not having a lawyer when they need one is a serious problem for many poor people in the United States. Lack of legal representation for low-income and moderate-income people is also a big problem for judges, preventing them from efficiently administering their courts and from conducting what they see as their proper function of evaluating well-presented evidence. Lack of attorneys for low and moderate-income people is finally an impediment to lawyers whose clients are paying for assistance. A number of national and state legal needs studies have documented the needs of both low and moderate-income people. The Comprehensive Legal Needs Study ("CLNS") conducted by the American Bar Association in 1994¹ is the most complete. The legal needs studies have concentrated on counting the numbers of unmet individual legal needs, and they have occasionally offered suggestions for solutions. This article reviews an effort which turned such research into expanded legal services for the poor.

Documenting the extent of legal needs is a necessary foundation for building a response to the legal needs problem. In Massachusetts two factors worked together to make the response effective: a history of state funding directed by a permanent, quasi-public entity, the Massachusetts Legal Assistance Corporation, and a cooperative legal services community strongly supported by the bar associations. The reduction in federal funding for legal services through the Legal Services Corporation and the concurrent imposition of severe restrictions on the use of the remaining funds in 1995 also were significant factors. This article will discuss each

1. ROY REESE AND CAROLYN ELDRED, FINDINGS OF THE COMPREHENSIVE LEGAL NEEDS STUDY, (1994). The Comprehensive Legal Needs Study (CLNS) was conducted by the Institute for Survey Research at Temple University for the Consortium on Legal Services and the Public of the American Bar Association.

of those factors including the creation and work of the Commission on Equal Justice, a prime element in the Massachusetts response. It will demonstrate how findings of the CLNS were used to gain funds and other support to better meet the individual needs of low-income people. The limitations of legal needs studies and responses based on them will also be reviewed.

I. Research On Legal Needs

The American Bar Association began the recent history of research on the legal needs of the poor with a national survey in the mid-1970's. The report on that study was published two decades ago.² Since the early 1980's, over a dozen states and localities have analyzed the legal needs of the poor and, in some cases, moderate income people.³ Many of those state studies were based on a model first used in Massachusetts in 1986.⁴

The Massachusetts *Plan for Action* was premised on the reasonable belief that people untrained in the law do not always know when they need a lawyer. Survey respondents were asked whether they had faced any one of a number of potential problems

2. BARBARA A. CURRAN, AMERICAN BAR ASS'N, *THE LEGAL NEEDS OF THE PUBLIC: THE FINAL REPORT OF A NATIONAL SURVEY* (1977).

3. CONSORTIUM ON LEGAL SERVICES AND THE PUBLIC, AMERICAN BAR ASS'N., *TWO NATIONWIDE SURVEYS: 1989 PILOT ASSESSMENT OF THE UNMET LEGAL NEEDS OF THE POOR AND OF THE PUBLIC GENERALLY* (1977); *See also*, THE SPANGENBERG GROUP, HAWAII COMM'N ON ACCESS TO JUSTICE, *ASSESSMENT OF CIVIL LEGAL NEEDS OF LOW- AND MODERATE-INCOME PEOPLE IN HAWAII* (1993); ALABAMA STATE BAR, *ASSESSING THE LEGAL NEEDS OF THE POOR: BUILDING AN AGENDA FOR THE 1990'S*, (1992); THE SPANGENBERG GROUP, OHIO STATE BAR ASS'N, *AN ASSESSMENT OF THE UNMET CIVIL LEGAL NEEDS OF OHIO'S POOR*, FINAL REPORT (1991); STATE BAR OF TEXAS, *LEGAL NEEDS OF THE POOR ASSESSMENT PROJECT* (1991); MAINE BAR FOUNDATION, *THE REPORT OF THE MAINE COMMISSION ON LEGAL NEEDS—1990*; THE PRO BONO REFERRAL PROJECT ADVISORY COMMITTEE OF THE WEST VIRGINIA STATE BAR, *REPORT ON THE LEGAL NEEDS OF LOW INCOME HOUSEHOLDS IN WEST VIRGINIA* (1990); THE SPANGENBERG GROUP, ILLINOIS STATE BAR ASSOCIATION AND CHICAGO BAR ASS'N, *ILLINOIS LEGAL NEEDS STUDY*, (1989); DAVIS, PENFIELD AND ASSOCIATES, UNITED WAY, COMMUNITY SERVICE COUNCIL OF CENTRAL INDIANA, *LEGAL NEEDS STUDY OF THE POOR IN INDIANA* (1989); THE SPANGENBERG GROUP, NEW YORK STATE BAR ASS'N, *NEW YORK LEGAL NEEDS STUDY* (1989); MASON-DIXON OPINION RESEARCH, MARYLAND LEGAL SERVICES CORP., *LEGAL NEEDS OF THE POOR IN MARYLAND* (1987); ADVISORY COUNCIL OF THE MARYLAND LEGAL SERVICES CORP., *MARYLAND LEGAL SERVICES, ACTION PLAN FOR LEGAL SERVICES TO MARYLAND'S POOR* (1988); JESSICA PEARSON AND NANCY THOENNES, THE CENTER FOR POLICY RESEARCH, *REPORT ON THE LEGAL NEEDS OF THE POOR IN COLORADO* (1985); MINNESOTA LEGAL SERVICES COALITION, *LEGAL NEEDS OF THE POOR IN MINNESOTA—AN ASSESSMENT OF THE UNMET NEED* (1984).

4. MASSACHUSETTS LEGAL ASSISTANCE CORP., *MASSACHUSETTS LEGAL SERVICES: PLAN FOR ACTION* (1987). [hereinafter "PLAN FOR ACTION"].

“that a low-income family might have experienced that could possibly benefit from the advice of a legally trained person.”⁵ The Massachusetts survey also asked whether respondents had been in court on their own initiative or had been brought into court by someone else within the last five years, the period of reference for the survey.⁶ Like most of the later legal needs studies, the *Plan for Action* was based on responses from a household and surveyed only those eligible for federally funded civil legal assistance.⁷ The study found that low-income families in Massachusetts had, on average, one unmet legal problem per household per year.⁸ This finding is consistent with the majority of recent legal needs studies which have found that households faced one to two unmet legal needs per household per year.

Believing that much had changed in the twenty years since its first national survey, in the mid-1990's the American Bar Association again surveyed the legal needs of low and moderate-income people. This Comprehensive Legal Needs Study (“CLNS”) produced a number of reports. The most interesting of which for the purposes of this article is entitled *Agenda for Access: The American People and Civil Justice*.⁹ The CLNS completed interviews with 2,784 households, including 1,525 with low-income and 1,259 with moderate-income. In addition to the telephone interviews, a total of 303 in-person interviews were conducted with low-income households that did not have telephones. The size of the sample, while more than adequate to provide valid information regarding low and moderate-income households in the nation as a whole, was too small to provide useful information regarding

5. PLAN FOR ACTION, *supra* note 4, at 32.

6. *Id.*

7. The eligibility for civil legal services is set annually by the federal Legal Services Corporation at 125% of the federal poverty level. Eligibility varies by size of household. Effective March 18, 1997, the Legal Services Corporation poverty guidelines allow service to families of the following size and maximum income: One person, \$9,863 per year; four people, \$20,063; and six people, \$26,863. These amounts are significantly below 50% of the median family income in the United States.

8. PLAN FOR ACTION, *supra* note 4, at 68.

9. Some of the reports produced from the ABA—CLNS are REESE AND ELDRED, *supra* note 1; CONSORTIUM ON LEGAL SERVICES AND THE PUBLIC, AMERICAN BAR ASS'N, LEGAL NEEDS AND CIVIL JUSTICE: A SURVEY OF AMERICANS, MAJOR FINDINGS OF THE COMPREHENSIVE LEGAL NEEDS STUDY (1994); and CONSORTIUM ON LEGAL SERVICES AND THE PUBLIC, AMERICAN BAR ASS'N, AGENDA FOR ACCESS: THE AMERICAN PEOPLE AND CIVIL JUSTICE, FINAL REPORT ON THE IMPLICATIONS OF THE COMPREHENSIVE LEGAL NEEDS STUDY (1996).

individual states. In order to update its legal need study, Massachusetts arranged to have the Institute for Survey Research (ISR) administer the CLNS questionnaire to a random sample of 500 low-income households in the Commonwealth. The results of that survey were reported in *Legal Needs among Low-Income Households in Massachusetts*.¹⁰ That report provided a detailed look at the legal needs of low-income people in Massachusetts and allowed comparison of the state results with the national results.

The CLNS questionnaire was designed to "define significant needs that would lend themselves to a remedy through the system of justice and include 'threshold' language to attempt to rule out situations unlikely to produce a legal need."¹¹ As was the case nationally, low-income households in Massachusetts experienced approximately one legal need per household per year. Forty-seven percent of all households experienced a legal need each year and those households with needs had an average of 2.2 legal needs each year.¹² The report concluded that there were just under 337,000 legal needs in Massachusetts each year.¹³ Annual reports compiled by the Massachusetts Legal Assistance Corporation record the completion of 43,000 civil matters in 1995. The national CLNS found that low-income people received three times as much legal assistance from private attorneys as from legal services attorneys.¹⁴ Applying these statistics to Massachusetts, the combined legal services and private attorney efforts addressed an estimated 165,000 legal needs of low-income people, but approximately 170,000 legal needs in Massachusetts remained unmet.

II. Massachusetts Legal Assistance Corporation

The current assault on federal funding for civil legal assistance to the poor is the latest in a long series of battles. The war of attrition began with the election of Ronald Reagan as President of the United States. He took office with the avowed intention of eliminating funding for the Legal Services Corporation ("LSC").

10. CARL LANDIS ET AL., INSTITUTE FOR SURVEY RESEARCH, TEMPLE UNIVERSITY, *LEGAL NEEDS AMONG LOW-INCOME HOUSEHOLDS IN MASSACHUSETTS, FINDINGS FROM THE COMPREHENSIVE LEGAL NEEDS STUDY* (1994).

11. *Id.* at 8.

12. *Id.* at 15, 16.

13. The 1990 Census reported a total of 336,871 eligible households in Massachusetts. U.S. Census. 1990.

14. REESE AND ELDRED, *supra* note 1, at 52.

While unable to totally eliminate federal funding, Reagan was successful in reducing it by 25 percent.

Responding to that decrease in funds and the fragility of a total dependence on federal funding, Massachusetts established a permanent source of state funding in 1983. The Massachusetts Legal Assistance Corporation ("MLAC") is a non-profit organization established directly by state statute whose 11 member board of directors is appointed by the Massachusetts Supreme Judicial Court. The statute establishing MLAC was modeled to a great extent on the then-existing LSC statute.¹⁵ MLAC was established as "a body politic and corporate . . . for the purpose of providing financial support for legal assistance programs" for low-income people in non-criminal matters except where the Commonwealth is otherwise required to provide representation.¹⁶ MLAC is also authorized, in addition to the usual corporate powers, to accept "donations, grants, appropriations, bequests and devises . . . of money, property, service, or other things of value" from practically any entity or individual whether governmental, public, or private.¹⁷ Furthermore, it can determine the amounts of financial assistance to be provided to programs and can publish with or without charge reports, bulletins and other materials. MLAC is required to ensure that the highest quality of service to clients be maintained.¹⁸

From the beginning MLAC has seen its mission as including increasing funding and other support for civil legal service programs as well as monitoring, evaluating and strengthening legal assistance to low-income people in the Commonwealth. In the mid-1980's MLAC helped organize the first statewide legal needs study which resulted in the *Plan for Action*.¹⁹ That report called for increasing state funding for civil legal services. Partially as a result of that report, the surcharge on civil case filing fees, the original source of funding for MLAC, was doubled. Based on the findings of the report, the Supreme Judicial Court also converted the previously voluntary Interest on Lawyers Trust Accounts Program ("IOLTA") into a mandatory program which resulted in

15. Massachusetts General Laws Ch. 221A (1997).

16. *Id.*

17. *Id.*

18. *Id. passim.*

19. PLAN FOR ACTION, *supra* note 4.

a four-fold increase in income for civil legal services. Two thirds of the IOLTA income goes to MLAC.²⁰

One important limitation on MLAC's authority is the requirement that it distribute funds for the general support of civil legal service programs based on the number of poor people who reside in the various program service areas throughout the Commonwealth. A related restriction prohibits MLAC from expending less than 80 percent of its general support funds on locally based programs. The requirement for even-handed distribution of funds eliminates the possibility or perception of geographic favoritism. It also gives each local program and the legislators who represent the local areas around the state an incentive to support increased funding for MLAC. The remaining 20 percent of MLAC funds may, but need not, be spent on statewide programs which provide back-up and support to the local programs.

The geographic distribution requirement became even more important in 1994. In that year the legislature, at the insistence of the House Ways and Means Committee, redirected the filing fee surcharge from MLAC. The surcharge remains in place but the revenue it generates goes into the state general fund rather than directly to MLAC. In exchange for the surcharge revenue, the legislature began a direct appropriation to MLAC of \$2.3 million dollars, the approximate amount generated by the surcharge. After two years at that level, and as a result of a concerted campaign based on the results of the Massachusetts legal needs study in 1996, the legislature increased the appropriation to \$3.8 million dollars. This increase partially made up for the 1995 cutback in federal funds.

In addition to general support funding, the legislature has, since 1984, funded several specific projects. These now include the Disability Benefits Project, the Medicare Advocacy Project and the Battered Women's Legal Assistance Project. Finally in 1996, the legislature began to provide funding for Basic Family Law Services. Legislative support for MLAC has been strong and bipartisan. The Supreme Judicial Court backed the creation of MLAC and has supported adequate funding for legal services. The Act creating MLAC was signed by Governor Michael Dukakis, who was a strong supporter of civil legal assistance to the poor. That support has been continued under his successor, Governor William Weld.

20. Massachusetts Supreme Judicial Court, Rule 3:07, Disciplinary Rule 9-102(C)(4)(a).

While Governor Weld twice vetoed funding for asylum representation for recent immigrants, he has approved the increased general support funding for MLAC and has strongly supported increased funding for assistance to battered women.

Besides the statewide network of support enhanced by the boards of directors and staff and clients of legal service programs, the organized bar has been a strong supporter of MLAC. Both the Massachusetts Bar Association, a voluntary statewide bar association, and the Boston Bar Association, a voluntary association with members throughout the state but concentrated in the greater Boston area, were cosponsors of the effort to create MLAC. They also jointly supported the creation of the Interest on Lawyer's Trust Account Program and its conversion to a mandatory program. Both bar associations supported the 1987 *Plan for Action* as well as the 1996 Commission on Equal Justice. These two Bar Association also nominate some of the members of the MLAC Board, and county bar associations collectively nominate people to serve in two positions on the Board.

III. Commission On Equal Justice

The findings of the Massachusetts legal needs study and the federal cutbacks made the need for thoughtful changes in legal services in Massachusetts apparent. In 1995, the MLAC Board of Directors allocated funds to support statewide planning to respond to federal changes and to establish a stronger foundation for legal services in Massachusetts. The Legal Services Corporation had directed its grantees to engage in a statewide planning process beginning in July 1995. The original reporting date for the LSC planning process was in November.

The MLAC Executive Director drafted a position paper on the need for statewide planning and for engaging consultants to assist. After review and revision with legal services program directors, the draft became the basis of a Request For Proposal (RFP). A Consultant Selection Committee was established which reviewed all the responses to the RFP and selected four of them to be interviewed. The Committee which included the MLAC Executive Director, several project directors and members of the MLAC board including clients, selected the consultant. The consultant recommended that a broad-based group be established as the public face of the planning process. Focus groups with project directors and a facilitated discussion at a MLAC Board meeting

that included the presidents of the boards of directors of each of the programs receiving funds from MLAC produced a mission statement and the name of the organization, the Commission on Equal Justice.

Two members of the private bar, two clients, two project directors, the MLAC Executive Director and two bar leaders were named to the Selection Committee for the Commission. The Committee decided on the composition of the Commission and began to seek members in November. Recruiting people to join the Commission took longer than expected, but by January the Commission began to meet. The initial members included the director of the largest legal services program in the state, a legal service staff member, two low-income representatives selected by a committee including clients, representatives of the Boston and Massachusetts Bar Associations and the MLAC Board. The first two meetings of the Commission were used to develop an understanding of the task before the Commission and to fill out the Commission's membership. Through the efforts of members of the Commission, the Episcopal Bishop of Massachusetts, the retired Chief Justice of the Supreme Judicial Court, a former State Attorney General and Congressman, and other members were added to the Commission. A part-time staff member was engaged to keep minutes of the Commission and to assist with organizing client and legal services staff member meetings.

The MLAC Executive Director served as executive director of the Commission. He prepared a background paper in February 1996 which drew heavily on the CLNS and the Massachusetts study setting out the extent of legal needs of the poor in Massachusetts, the current delivery structure, proposed changes and other relevant information.²¹ Through a series of discussions, the Commission evolved a plan of holding Regional Informational Hearings throughout the state to gather information from the public, legal services programs, clients, the private bar, social services providers and any other interested people. Six hearings were held including one in Boston to hear from representatives of statewide groups as well as Boston area organizations. The directors of legal services programs organized the local hearings. The Commission's existence was publicly announced on May 1, 1996, Law Day. The announce-

21. Lonnie Powers, *Current State of Legal Services in Massachusetts—Background Paper for The Commission on Equal Justice*, Feb. 1996 (on file with the author).

ment at the state capitol was publicized and a fair crowd gathered to hear the the public agenda of the Commission set forth.

In addition to the Regional Informational Hearings, a report on the demography of poverty in Massachusetts and the effects of recent changes in federal law on the poor people of Massachusetts was commissioned. Further, a survey of legal service staff was commissioned to determine the effects on clients of representation by legal services and focus groups of representative clients throughout the state met during July and August. All of this information was collected into a written report issued in October 1996. The report outlined the nature of the problems facing the poor as well as made specific recommendations for addressing their needs.²²

IV. Legal Service Program Changes Based On The Legal Needs Studies

Legal service programs have long accepted that they cannot serve more than a small fraction of low-income people with legal needs. The Comprehensive Legal Needs Study found that only 21 percent of low-income people with legal needs had access to an attorney.²³ The study also found that low-income people who had obtained a lawyer's assistance were three times as likely to see a private attorney than a legal service lawyer. This surprising fact is due in large measure to the greater use of private attorneys in cases where fees may be recoverable such as personal finance, consumer, employment related matters, personal economic injury cases and in domestic relations where the need for counsel may be so urgent that some means of paying the fee is found. Legal service lawyers are more likely than private attorneys to represent low-income people in housing and real property disputes as well as community and regional issues.

Other instructive findings from the legal needs study for legal service programs were the main reasons why low-income people did not seek legal or judicial help. Topping the list were the 20 percent who did not think the system could help them, followed by 16 percent who were concerned about cost, 10 percent who thought the situation they confronted was not really a problem and 4

22. COMMISSION ON EQUAL JUSTICE, MASSACHUSETTS LEGAL ASSISTANCE CORP., EQUAL ACCESS TO JUSTICE: RENEWING THE COMMITMENT (1996).

23. REESE AND ELDRED, *supra* note 1, at 52.

percent who felt it was not a legal problem.²⁴ These later findings indicate the enormous need to provide low-income people with accurate, timely and easily-accessible information about legal services and common legal problems.

This informational need, together with the realization by legal service programs that they were serving only a small percentage of the low-income population, and the federal reductions in funds in 1996 had a significant effect on the responses of legal service programs in Massachusetts. The national and state legal needs studies demonstrated that the issues confronting programs in Massachusetts were similar to those confronting programs all over the country. These statistics also demonstrated that while some low-income people were getting to lawyers, many others were not because they lacked information about when to seek legal assistance. Only if and when potential clients realized that they had a legal problem could they make an informed decision about how to handle it.

At the same time as the need to reach more people became apparent, Massachusetts legal service programs and the Commission began to consider ways to be more efficient in initial contacts with clients. Programs in Massachusetts began early on to discuss "hotlines," which are basically telephone intake systems. In these systems a potential client's first contact is over the telephone with a lawyer or paralegal who is trained to make an initial assessment of the legal situation facing the callers, provide brief advice and assistance and, when appropriate, to make referrals to organizations or individuals who can provide further assistance. One such program, the Legal Advocacy and Resource Center had been operating in Boston under the auspices of the Boston Bar Association for some years. The Center had provided, initially through volunteer staff, some advice and referral to both low and moderate-income clients. In 1996, the possibility of a statewide hotline system to be funded at least in large part with LSC funding was seriously discussed.

Despite a considerable amount of initial interest in the spring and early summer of 1996, the legal service programs were unable to reach agreement on that approach before the mid-summer deadline for filing of applications to LSC. However, several regional hotlines now operate in the greater Boston area, southeast-

24. *Id.* at 50-51.

ern Massachusetts and central and western Massachusetts.²⁵ Although the efforts to construct a statewide intake and referral system have not yet proved successful, there is a continuing interest in the concept. The experience with the separate regional systems may well lead to greater acceptance of the concept and a recognition of the economies of scale which a statewide system could achieve. Any further significant reductions in LSC funding may force movement toward a statewide system despite misgivings.

Low-income households are most likely to bring family and domestic issues and personal or economic injury matters to the legal or judicial system matters where the need for legal help is most evident. They are least likely to seek legal assistance in consumer, health, housing, employment and personal finance matters, and matters affecting their communities and regions. The reluctance to seek legal counsel about these important matters which affect daily life is another indicator of the need to provide more accessible, accurate legal advice and assistance. Legal service programs nationwide know that when they refuse to handle certain types of cases, the number of calls seeking assistance for these matters quickly and dramatically declines. Thus, the very inaccessibility of legal services may well cause low-income people not to seek advice and assistance from the programs. This conclusion may be particularly accurate for community and regional, personal finance, and consumer matters which legal service programs do not often handle.

The Massachusetts study and the CLNs reported that a substantial number of low-income people undertook self-help remedies for their legal problems. Of those who had a legal need and took some action on their own, 15 percent in Massachusetts and 27 percent nationally "took direct action to address [the] need."²⁶ The Commission on Equal Justice heard considerable testimony about the increasing numbers of *pro se* litigants and

25. These are the Legal Advocacy and Resource Center in the greater Boston area which now is part of the Volunteer Lawyers Project, the LSC recipient for greater Boston. In central and western Massachusetts, the Massachusetts Justice Project serves the five counties which include the cities of Worcester, Springfield, Northampton, Pittsfield and Greenfield. Southeastern Massachusetts, including the cities of New Bedford, Fall River and Brockton, is served by the New Center for Legal Advocacy. *Programs' annual reports*, 1996 MASSACHUSETTS LEGAL ASSISTANCE CORPORATION.

26. LANDIS, *supra* note 10, at 36; REESE AND ELDRED, *supra* note 1, at 47.

recommended specific steps to provide assistance and advice, if not representation, for these *pro se* litigants.²⁷

V. Limitations Of Legal Needs Studies

Although the reports provide valuable statistical information, the responses of legal service programs to the CLNS, the Massachusetts study and the growing number of *pro se* litigants highlight some significant limitations of legal needs studies. The most important limitation is the lack of subtlety in analyzing the identified legal needs. Another is the focus on individual needs. Because of time restraints, none of the major legal needs studies have been able to explore with low-income people how serious they felt the problems they confronted were.²⁸ The large number of individual needs and the lack of information about the intensity of the needs results in individual needs appearing uniform. The reports provide an image of a flat plain as opposed to the peaks and valleys of daily experience. Classifying people by the ordinary demographic categories of age, marital status, household size, race and income strata also reveals no useful information about individual abilities to respond to problems which confront them.

These deficiencies have given rise to imaginative attempts to read more into the results of the studies than are there. The number of individual needs have also given rise to suggestions for authorizing non-lawyers to assist with legal problems of the poor. One example is the "equal justice umbrella" constructed by the Washington State Equal Justice Network. The Network has determined that low-income people confronting legal needs can be appropriately served through a wide variety of means. In the opinion of Network members, 50 percent of the people can be served through what is often called "community legal education" including provision of self-help materials and another 35 percent can be adequately assisted by trained non-lawyers such as domestic violence shelter workers. The network also estimate that 10 percent of the people in need will require the help of an attorney through advice or brief service and only 5 percent require "full-range high-cost representation."²⁹

27. RENEWING THE COMMITMENT, *supra* note 22, at 57.

28. REESE AND ELDRED, *supra* note 1, at 5-6.

29. WASHINGTON STATE EQUAL JUSTICE NETWORK, *Equal Justice Umbrella* (on file with the author).

Such efforts, though laudable, are subject to several criticisms. The most obvious is that there is little basis for assigning the specific percentages. The second is that they may place too much focus on individual legal needs. One thrust of the recent Congressional attacks on federal legal services funding has been to force LSC-funded programs to focus exclusively on individual legal needs. But individual needs are not and never have been the sum total of the legal needs confronting the poor. Low-income people face collective problems. They deserve access to all the legal tools a lawyer might appropriately use for an institutional client. Such an attorney would advise an institutional client about how to make maximum use of the legal system, legislative, administrative and judicial, to enable the client to achieve its ends. That legal service programs and private attorneys representing the interest of the poor should do no less may be widely accepted.

The daunting task is identifying appropriate issues and tactics that can best serve the community needs of low-income people. Legal needs studies, and possibly no survey efforts, can ever completely answer what is at root a political question. Political in the sense that an answer involves deciding what is in the best collective interest of a large group of people who may not even recognize that common interest. One of the major problems confronting legal services is, and has been, that there is no legitimate method for low-income people collectively to make decisions. No single organization represents a significant percentage of all low-income people. There are no voting or quasi-voting mechanisms available. In the legal arena, low-income people are not "consumers" in the ordinary sense of paying for services, so their individual economic decisions cannot be aggregated.

These issues have always been present but the ability of legal service programs to represent groups of clients, to form long-term relationships with community groups, to work with non-profit organizations and to represent clients before legislative and administrative bodies have worked to mitigate the problems presented by a lack of "process legitimacy."³⁰ Future legal needs studies may be able to assist in identifying the collective legal needs

30. Because it is unusual for lawyers to "organize" as well as represent, there have always been internal tensions within legal services generated by the lack of a clear "client" who could speak for large numbers of low-income people. The existence of groups with different opinions within the low-income community further exacerbates this tension.

of low-income people. Such information would greatly benefit clients and their legal service allies as they attempt to address those needs.