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August 15, 2011

David Rosenberg, Esq.
Chair, Special Planning Committee
Mass. Access to Justice Commission

Re: Interim Report of the Special Planning Committee

Dear Attorney Rosenberg:

I am writing to comment on the Interim Report of the Special Planning Committee (SPC) of the Access to Justice Commission (AJC). I appreciate the considerable time and effort that were spent preparing the report and its many thoughtful recommendations. I want to focus my comments on a few particular areas. Specifically, I am concerned about the factual underpinnings of some of the report's assertions and its failure to address what I believe is one of the most significant issues affecting the delivery of legal services in the Commonwealth – the funding disparities among the field programs.

Funding Disparities

The SPC's report acknowledges that there is a devastating financial crisis affecting the programs in the delivery system, but does not offer an opinion on how this crisis has affected services, nor does it examine whether certain programs have been affected more than others. More importantly, the report does not address in any way the funding disparities among the different programs, whether the existence of such disparities is acceptable from a justice perspective when viewing the statewide service delivery system as a whole, and whether there are ways to address such disparities for the betterment of clients. The report's silence in this regard is troubling.

A comparison of the financial conditions of Greater Boston Legal Services (GBLS) and Community Legal Aid (CLA) is worth exploring given that the programs serve roughly similar segments of the poverty population (32.539% for GBLS and 28.350% for CLA), although CLA serves a much larger geographic area and needs to support multiple offices. In FY2008, GBLS' total funding was \$14,846,340 and its total staffing was 137.95, while CLA's total funding was \$7,866,185 and its total staffing was 79.85. In FY2010, GBLS' total funding was \$12,887,277 and its total staffing was 121.35, while CLA's total funding was \$4,821,248 and its total staffing was 63.06.¹

¹ The FY2008 and FY2010 numbers cited above for CLA represent the sum of the individual funding and staffing levels of WMLS and LACCM before the organizations came together on July 1, 2011.

Thus, in FY2008, GBLS' funding was 89% higher than CLA's funding, and GBLS' staffing was 73% higher than CLA's staffing. These disparities only increased as a result of the financial crisis over the last few years. By FY10, GBLS' funding was 167% higher than CLA's funding, and GBLS' staffing was 92% higher than CLA's staffing. The implication of these numbers for poor people is obvious. If you are poor and live in the Boston area, you have a significantly better chance of accessing free civil legal aid than if you live in the Central West region. Comparing GBLS to the other field programs leads to similar conclusions; in fact, in FY2010, GBLS had virtually the same amount of funding as **all** of the other field programs combined.²

While I applaud the AJC's decision to form a Revenue Enhancement Committee, that group's efforts will do little to address these disparities, unless the group's mandate is expanded. Among other issues, I would encourage that committee to take an honest look at how private bar money is distributed in Massachusetts and work with the programs on creating a more just and equitable system that benefits clients throughout the Commonwealth. Indeed, it is my understanding that similar efforts have been undertaken in other states. If we, as people concerned about legal services, are committed to equality and justice for all the Commonwealth's citizens, we cannot continue to bury our heads in the sand and ignore these disparities.³

Other Issues of Concern

Impact/Systemic Work -- The report mentions on more than one occasion that, beyond GBLS, there is very little systemic advocacy or impact work occurring in the field programs. The Central West region was not asked about systemic or impact work,⁴ and it is my understanding that this issue was also not raised with the other field programs; accordingly, I would suggest that the language to this effect in the report be removed, unless further study and analysis are undertaken by the SPC. And to the extent the SPC feels it is important to compare the quantity of systemic work being done in each field program, I would implore the SPC to consider how the relative financial condition of each field program affects its ability to do impact work. If in fact GBLS is doing more systemic work (however that term is defined), would that be a surprising finding given its financial condition vis-à-vis the other field programs? If the SPC is committed to increasing the level of systemic work outside GBLS, it needs to address the funding disparities that exist among the programs.

Restricted Work -- Various sections of the report seem to be written with the presumption that, beyond GBLS, the other field programs are not using very many of their resources to do work that an LSC-funded program cannot do.⁵ To the best of my recollection, the SPC did not ask the Central

² GBLS serves 32.539% of the poverty population. CLA, Neighborhood Legal Services, MetroWest Legal Services, South Coastal Counties Legal Services, Community Legal Services and Counseling Center, and Children's Law Center of Massachusetts combined serve 67.459% of the poverty population. In FY2010, GLBS' total funding was \$12,887,277, while the other field programs had combined funding of \$12,994,759.

³ Nothing in the preceding or following sections should be taken as some type of indictment of GBLS. GBLS is one of the preeminent legal services programs in the country and has done a wonderful job of raising funds under the leadership of Bob Sable, Jack Ward, and other staff. However, to honestly assess the legal services delivery system, the financial resources available to each region cannot be ignored.

⁴ If CLA had been asked about its systemic advocacy efforts, among other things we would have pointed to our work in the family law arena which, over the last few years, has included membership on the Chief Justice for Administration and Management's Child Support Task Force and the filing of several amicus briefs and appeals.

⁵ The report states that the SPC should follow up with the Central West, Southeast, and Northeast regions (but not the East region) on "issues where LSC restrictions prohibit service." The report also specifically notes that one of the "new developments" that the SPC was formed to address was the fact that "the MLAC-funded programs in the Southeast and Central/West regions are not using very much of their resources to do work an LSC-funded program can't do. . . ."

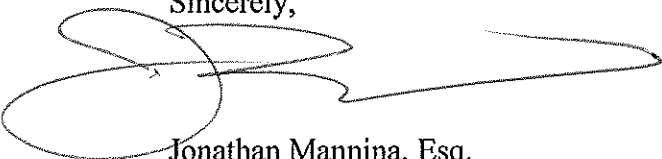
West region about this issue,⁶ and I am unaware if this issue was specifically raised with any of the other regions. To the extent the SPC thinks it is important to gather such data in connection with its assessment of the statewide legal services delivery system, I would suggest that the data be collected from each field program in the state and shared.

Planning and the Role of the SPC – The report comments on the SPC’s view that there is a surprising lack of statewide and regional planning, which is part of the basis for the report’s later comments about the role of the SPC going forward. The recent events in the Central West and Southeast regions show, if they show anything, that there is a high degree of planning going on. In the Central West, for instance, WMLS and LACCM – two organizations that existing separately for decades with absolutely nothing in common but for the fact that both of them provided free civil legal services – are now one program. The fact that WMLS and LACCM have come together also seriously calls into question the report’s comments that a single statewide program and other efforts at unity are “utopian” in view, given the “fiercely independent cities, villages, and towns” in the Commonwealth. The cities and towns in the Central West are arguably the most independent in the Commonwealth, yet WMLS and LACCM are now one program and cover half the geography of the state. There is no reason that further consolidation among other programs cannot occur over time; indeed, such consolidations would serve to address the funding disparities addressed above.

In terms of the role of the SPC going forward, a few comments are in order. First, a significant portion, if not all, of the SPC’s inquiries that led to the interim report had already been explored and continue to be explored by MLAC. As the SPC continues defining its role, it is absolutely critical that the SPC, and the AJC more generally, examine their roles vis-à-vis MLAC; requiring the field programs to go through the same process of assessment time and time again is not in anyone’s interest. Perhaps such issues can be explored as part of the AJC’s anticipated meeting (which I support) with MLAC’s board leadership and executive director as referenced in the report. Second, to the extent that the SPC feels that it is in a unique role to assess the legal services delivery system as a body that is “not within the system itself,” it is important that the composition of the SPC and any other AJC committees stays true to that vision, or at least ensures that, if program directors and board members from individual programs serve as members of the SPC and other AJC committees, there is fair representation from programs in each legal services region in the Commonwealth.

Thank you for the opportunity to comment on the interim report. I look forward to continuing to work with the AJC to improve the delivery of legal services in the Commonwealth.

Sincerely,



Jonathan Mannina, Esq.
Executive Director

cc: Gerry Singesen

⁶ Examples of CLA’s restricted work include, but are not limited to, providing services to the undocumented persons who contact either MJP (our LSC partner) or our program, lobbying the legislature on bills affecting our client communities, and occasionally engaging in class action representation to the extent our limited resources allow.