

2004 SHERMAN J. BELLWOOD MEMORIAL LECTURE
JUSTICE FOR ALL: ARE WE FULFILLING THE PLEDGE?

By Helaine M. Barnett, LSC President

VII. QUALITY

The primary emphasis during my tenure at LSC and my personal priority is to focus on program quality. It is not enough for a low-income person to have access to a lawyer if that access does not result in high-quality service. Access to a lawyer is not, in and of itself, access to justice. The LSC Act requires LSC to ensure that the programs it funds are of the highest quality and meet professional standards.⁹⁶ Our challenge is to determine how to actually define quality, how to measure quality, and what our role as a funder is in helping to promote and inspire LSC-funded programs to provide the highest quality legal services possible.

By making quality a focus, I am not implying in any way that the representation provided by lawyers and other advocates in legal services programs have not been or are not now of high quality. Indeed, in my experience, the legal representation provided by the civil legal services community has been and is of very high quality by any professional standard, even given the very scarce resources with which most, if not all, programs operate. But by putting quality at the forefront of what LSC stands for today, the aim is to make the delivery of services by programs to their clients even better.

When I began discussions with my colleagues about a focus on quality, and the related question of how to measure it, it became clear that "quality" is difficult to define. The term "quality" necessarily encompasses many concepts. Quality includes a program's capacities, the processes it follows, and the outcomes it achieves, including both the results for individual clients and the extent it is successful in securing outcomes that "assist in improving opportunities for low-income persons," as the LSC Act provides.¹

A basic component of quality is whether our work is making a difference in the lives of individual clients. Are we providing representation in the types of cases that reflect the most critical needs of our client population? Are we taking steps to adequately address the needs of special populations of clients, such as those with limited English proficiency and migrant workers? In other words, are we integrated into the community so that we are aware of the changing needs of our clients, and are we responsive to those needs and changes in the services we provide?

Focusing on quality also means assuring that legal services programs are well-functioning organizations. Do programs have effective leadership and competent and motivated staff? Is there diversity in the workplace? Do programs support continuing training and participate in critical self-evaluation, as well as develop state and local resources to support their mission? Do programs make effective use of technology? The aim of LSC is to emphasize these goals and foster discussion within the legal services

community about how LSC and programs working together can further improve the services programs provide.

Of course, resources are always an issue. But within the current level of resources, there are a number of steps LSC can take. Programs can do more to measure client outcomes and analyze the results of their representation so that we can demonstrate the impact of our work on the community. We also need to review and update the performance standards that apply to the legal services community. The ABA last revised its Standards for Providing Civil Legal Assistance to the Poor in 1986. LSC will work with the ABA and other partners to review and update these standards to take into account, among other things, emerging trends such as the tremendous increase in the number of persons with limited English proficiency, the increased use of technology, and the increased attention to limited or discrete task representation.

We should also consider increased use of peer review. No one can better judge whether a program is delivering high-quality legal services than another experienced professional in the legal services community. During a typical peer review, colleagues from outside the program spend several days visiting the program, examining case files, reviewing program procedures and operations, and speaking with program staff, all designed to assess the program and provide helpful feedback. One possibility is a system of peer review based on the model of ABA accreditation of law schools, a model I was very impressed with when I had the pleasure of participating on a law school accreditation team last year with Brian Pitcher, the provost of the College of Law at the University of Idaho.

The most important ingredient in building and maintaining high-quality programs, of course, are the dedicated people who work in legal services. I have first-hand knowledge of the exceptional talent and commitment of legal services staff. Achieving our goals will be impossible unless we continue to recruit and retain talented lawyers to public service. This brings me to a pressing problem in the legal services community and one that I am sure is very real to many of the students here today. It is the burden of law school debt on lawyers wanting to pursue careers in public service.

Recognizing the severity of the problem, the ABA appointed a Commission on Loan Repayment and Forgiveness which produced a final report in 2003. The Report documents the rapidly increasing cost of a legal education. For example, 87% of law students now borrow to pay for law school, and many graduate with over \$ 80,000 of debt.² The median starting salary in legal services programs is only about \$ 36,000.³ LSC has conducted its own survey, and most programs responded that law school debt has a serious impact on their ability to recruit and retain qualified staff attorneys.⁴

One exciting development on this front is the possibility of LSC initiating a pilot Loan Repayment Assistance Program. LSC's fiscal year 2005 appropriations legislation allows LSC to use up to \$1 million of previously appropriated but unspent funds to launch a pilot Loan Repayment Assistance Program.⁵ LSC established a Task Force on Loan Repayment this summer to help design the best possible pilot and hope to make it a

permanent program.

Assuring high quality in legal services programs requires not only helping to make sure that there are enough talented lawyers entering the field, but also developing future leaders. To best serve clients, the legal services community must have diverse leaders and staff. LSC has made and will continue to make leadership development and diversity a priority. We will work with partner organizations in the legal services community to identify necessary leadership skills and to provide training to enhance these skills. We are also developing a mentoring program as part of leadership development so that future leaders can benefit from the advice of those with more experience and develop the relationships that will provide guidance and support throughout their careers. By taking these steps, LSC hopes to develop a diverse pool of potential future leaders in the legal services community.

¹ 42 U.S.C. § 2996(3) (2004).

² ABA Commission on Loan Repayment and Forgiveness, *Lifting the Burden: Law Student Debt as a Barrier to Public Service* 9-10 (2003).

³ *Id.* at 10.

⁴ 100 LSC, *Report: Employer Loan Repayment Assistance Program (LRAP) and Retirement Benetee* 2 (2004).

⁵ 101 Consolidated Appropriations Act, 2005, Pub. L. 108-447, 118 Stat. 2809.