



September 12, 2001

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Peter Racette, Director
North Country Legal Services, Inc.
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Dear Peter:

I am writing in response to your July 18, 2001 request for a critique of the three upstate regional plans and for an explanation of our April 2001 decision not to accept them. I am also writing on behalf of LSC Vice-President Randi Youells to propose a meeting with your reconstituted state planning steering committee. While I will outline in this letter the reasons for our April 2001 decision and our view of what lies ahead, we feel a face-to-face meeting with your newly designated state planning body will promote a fuller understanding of our thinking and maximize the opportunity for consensus on New York's next steps. I understand you hope to have that body in place soon. Once it is in place, please have a representative contact me to develop a mutually convenient meeting time should the committee so desire.

Now let me turn to last April's decision. As you know, on April 16, I spoke with your regional representatives by conference call to announce our service area decision. I followed that call with an e-mail to each of you explaining that LSC did not believe the plans submitted by your state would lead to the kind of integrated delivery system we have been looking for. I announced that we would compete the current New York service areas for FY 2002, but "we expect ...to reduce the number of basic field grants in New York [for FY 2003] to five - one for each of five New York regions."

Over the last three years, LSC has articulated the values and goals that underlie our state planning initiatives in a number of documents and correspondence with New York planners, including program letters 98-1, 98-6, and 2000-7. As you know, through state planning, we hope to achieve a statewide delivery system that is constructed and maintained to provide for:

- a. Relative equity of client access to the civil legal services delivery system throughout the state;

- b. Relative equity in the availability of the full range of client service capacities necessary to meet the full continuum of client legal needs regardless of where in the state the client lives;
- c. Relative equity in the capacity to service client communities in all of their diversity; and
- d. Relative equity in the investment of civil equal justice resources (federal, state, private, and in-kind/pro bono) throughout the state.

A hallmark of an integrated delivery system is its flexibility to deploy resources in geographic or substantive areas so that quality of services is improved, funds are increased, and outcomes for clients are expanded in areas where they are weak. In this context, relative equity considers the system's various capacities throughout the state, from region to region, and directs necessary resources to locales where improvement of any sort is required to assure that all low-income people in the state have similar degrees of access to the full spectrum of equal justice services.

New York has a long list of accomplishments on behalf of low-income clients and has taken many steps over the past few years to coordinate its efforts and assure clients are well served in all forums. The partnerships that have been created among the programs, both LSC and non-LSC, your work to secure and preserve state funding, your commitment to funding a full range of services and support capacities, your state support activities, and your utilization of technology are good examples of your capacity to use your collective resources for the benefit of all clients regardless of program boundaries.

As we have noted before, however, we believe the number, size and configuration of programs presents a roadblock to more fully maximizing the effective and economical delivery of high quality legal services to eligible clients throughout the state. As we have stated on several occasions, despite your achievements, the range and quality of services to clients varies from program to program, as do the available resources and client access to them. Moreover, there are no systematic ways within the state or regions to address questions of relative equity, scope, method or quality of services, and to ensure to the maximum extent possible that major components of the delivery system work together and adopt the most effective approaches to serving clients.

The situation is aptly described in the Western Region plan, which could have been written about much of the rest of the state as well:

Overall the current delivery system could be characterized as coordinated but not planned. For example:

- ?? *The relations between programs are largely based on history rather than on deliberate consideration of the best ways to use resources to serve eligible clients.*
- ?? *Activities on the regional level are driven by grants, rather than by a vision of a justice community.*
- ?? *Programs tend to operate as individual programs, rather than as components of a regional system.*
- ?? *There is no systematic way to encourage innovation, to evaluate change, and to ensure that all programs adopt the most effective methods to serve eligible clients.*

For a variety of reasons, we did not think the regional plans submitted last spring adequately addressed these issues, either individually or collectively. Part of the problem relates to the process by which you have dealt with the question of program configuration, and to some extent, other planning areas as well.

As you know, in response to our 1998 Program Letter, New York adopted a hybrid state/regional planning approach. The general idea was that statewide working groups would develop the overarching values and chart the general directions, and implementation would be left to the regions. While this approach is appropriate for a large state, we noted our concern early on about the relationship between the statewide working groups and the regional collaboratives. We feared a balkanization of planning and in our February 1999 feedback letter on your 1998 State Plan suggested that all statewide working groups and regional collaboratives adopt the goals of an effective statewide system to assure consistency of principle and purpose. We also noted the need for more clearly articulated goals at all levels.

Our concerns unfortunately proved well founded, especially with respect to the question of upstate configuration. Rather than developing a statewide blueprint, or a set of principles to guide the discussion, New York completely delegated this issue to each region with no mechanism for assuring consistency of principle or process. Not surprisingly, with one key exception, each region went about the question its own way and came to very different conclusions on fundamental points including not only the number of programs and their relationships to each other, but also their relationships to other components of the delivery system, their “governance,” their approach to client access, to technology, training, task forces, priorities, resource development and peer review.

For example, two regions signed on to a “peer review” system (to be established), one did not. Two regions created some kind of overall planning and oversight body with some staffing; one found that route unnecessary. One region spoke of joint regional priorities, one was silent on the subject, and the third envisioned the two programs in the region setting separate priorities.

One seemed to commit to regional intake, at least in some substantive areas, one definitively rejected the idea, and the third put the question on its furthest back burner. Each region had plans for substantive task forces, but the substantive areas and their roles in guiding legal work within the region varied; two proposed some dedicated staffing for task forces, one did not; and of the three, only one mentioned integration with the existing task forces lead by GULP.

As to the structure and number of programs, the Central Region opted to combine four programs into two “learning organizations that intersect in ways to foster organizational growth and competency.” The Western Region initially proposed maintenance of all five programs, then decided upon three, but with “no change in the identity of the “affiliated providers.” And the three Eastern Region programs proposed a “consortium,” even creating a fourth entity for “planning, coordinating and marketing.”

While each region is different, viewed from a statewide perspective it is difficult to discern sound reasons for such disparate and incongruent choices.

Unfortunately, the only really consistent approach was the failure of each upstate region to involve anyone other than program directors in the decision making process, despite our frequent urging that there be “participation by staff, Board members, clients and other critical stakeholders.” It was clear to LSC by the failure to involve other stakeholders early on that the various regional governing bodies were late in the day add-ons to make the plans more palatable to LSC rather than the coming together of institutions and leaders who had worked together to devise a common plan. We did not see within each region, as we had urged in our correspondence, a governing body that “understands that it, and each program, is accountable for the quality, breadth, effectiveness and integration of legal work throughout the entire region.” Instead, we saw plans that appeared directed more towards the least corporate change possible rather than “consideration of the best ways to use resources to serve eligible clients.” Even where mergers were proposed, there was little sense that the resulting entities would be held together by common goals.

Overall, these shortcomings gave us little confidence that the multiple programs within each region, or the regions themselves, would function in a cohesive manner, effectively maximizing resources and collectively striving to provide relatively equal access to services and justice throughout each region and the entire state. We concluded that these goals would be more effectively achieved by making one grant within each region to a single entity that clearly understands that it is responsible for making the best use of its resources for all clients within the region. Accordingly we announced that “we expect [for FY 2003]...to reduce the number of basic field grants in New York to five - one for each of five New York regions.”

While we have received no information that alters our intentions, we welcome the creation of a broad based state planning body and will carefully consider a different statewide

configuration plan proposed by it if the composition of the planning body comports with Program Letter 2001-4,¹ and its configuration plan effectively addresses the concerns we have raised in this letter as well as the criteria established in Program Letters 98-1, 98-6 and 2000-7. Any plan submitted by your planning body must be received by December 31, 2001.

We expect any proposal to:

- ?? Define the vision and values that govern it;
- ?? Demonstrate a sound correlation between the proposed configuration and development of a comprehensive, integrated statewide delivery system;
- ?? Establish a framework or governance structure to encourage innovation, evaluate change and ensure that programs adopt the most effective methods to serve clients;
- ?? Identify accountability mechanisms to ensure the timely implementation of major state planning tasks and directives;
- ?? Provide a vehicle for continued and regular evaluation and review of the statewide delivery system to ensure both the continuing relevancy of the values and goals that serve as the benchmarks for the planning efforts, and to ensure that the system reinforces those values and goals over time.

As to the specific configuration of service areas, we accepted New York's definition of the five regions, but are not wedded to their exact lines. Upon reexamination, your state planning body may suggest a different alignment of counties that better reflects the geographic, socio-cultural, economic and historical distinctions and affinities within the state most relevant to clients and their communities. We note in this regard that we have often questioned whether the northern portions of the eastern region and the northern and eastern portions of the central region form a relatively distinct region best served by a single program anchored in Albany. We realize that a realignment of this nature would constitute a significant change in direction for you, but nonetheless invite the planning body's recommendation in this regard.

As to the number of programs within each upstate region, I hope I have clearly articulated our problems with the multi-program models contained in the 2001 upstate plans. While we will give consideration to a revised plan developed by your state planning body, we expect you will not return with the same plans we previously rejected.

¹ A "Designated State Planning Body" is an entity that has been established and charged with responsibility for coordinating state legal services delivery planning in accordance with LSC Program Letters 98-1, 98-6, and 2000-7. Such planning entities are generally composed of an array of civil equal justice delivery stakeholders, including but not limited to representatives from the state bar association, state IOLTA funding entity, staffed legal services programs (LSC and non-LSC), the pro bono community, client organizations, clients and others with an interest and commitment to effective delivery of civil legal services to poor and vulnerable people in the state.

Peter Racette, Executive Director
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Let me close by reiterating our proposal for a meeting with your new state planning body. We are fully aware of the many costs and the diversion of time from client service associated with the continued churning over configuration issues. It is our hope that by working together we can successfully bring closure to this part of the planning process.

Sincerely,

Robert Gross
Senior Program Counsel
For State Planning

cc: New York LSC Executive Directors