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Legal Aid to the Poor: What the National Delivery System Has and Has Not Been Doing

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LEGAL AID TO THE POOR: WHAT THE NATIONAL DELIVERY SYSTEM HAS AND HAS NOT BEEN DOING

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INTRODUCTION

Approaches to the delivery of civil legal services to the poor have undergone several significant shifts in emphasis since the foundation of the first legal aid program in 1876. The modern federally funded system of legal aid, which has been influenced and shaped by these shifts in legal services delivery emphasis, is now moving into an era of significant transition as prior government financial support for legal services to the poor is being sharply curtailed. As a result of this new political and administrative context, this article will examine how the current national delivery model of legal aid is currently meeting the complex legal problems of the poor in order to ascertain how the cuts in public financial support for legal aid will *and* will not impact upon civil legal services to the poor.

The Legal Aid Society of New York, which was founded in 1876 in New York City, was the first major independent organization in the United States to provide legal services to the poor.[1] This effort was subsequently followed by the formation in the City of Chicago in 1885 and 1888 of two other legal aid organizations.[2] The impetus for the formation and subsequent operation of these early legal aid organizations did not come from the poor; rather they were initiated by middle and upper class reformers who sought to ameliorate the causes of poverty through legal remedies.[3]

These nineteenth century legal aid programs provided legal representation based on the civil legal problems of individual clients, such as landlord-tenant disputes or wage claims. In addition, early legal aid programs engaged in class

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1. John S. Bradway, *Legal Aid Bureaus: Their Organization and Administration; A Manual of Practice Compiled by John S. Bradway*, 47 PUBLIC ADMINISTRATION SERVICE 1 (1935).

2. *Id.*

3. *Id.*; *See also* Phillip L. Merkel, *At the Crossroads of Reform: The Last Fifty Years of American Legal Aid*, HOU. L. REV. (Jan. 1990).

action lawsuits that were designed to make significant substantive changes in case law precedent in order to improve the legal standing and social conditions of poor people.[4] (These early efforts also included lobbying legislators to change laws that adversely affected poor people). The administrative approach of these early legal aid organizations[5] was oriented towards the staff-attorney model, in which most legal aid programs were independent corporations and hired staff attorneys who developed expertise in various areas of poverty law, such as landlord-tenant law, and directly represented poor clients. Funding for these early organizations was mostly obtained from municipalities and existing charities.[6]

By 1917, the number of legal aid programs had grown to 41 nationwide, with most providing legal services primarily based on the staff-attorney model.[7] However, this approach to the delivery of legal services to the poor was about to change. A year earlier, Reginald Heber Smith, whom many now regard as the founder of the modern legal services movement, first argued for a national legal service delivery system based on a preventive-law staff-attorney model. Under this approach, legal aid lawyers and organizations were likened to doctors who practiced preventive law by identifying problems of the poor through statistics and then addressed those problems through litigation, lobbying, and public education.[8] Smith also argued that legal aid organizations that were funded by municipalities and charity organizations were losing their independence and thus must be autonomous and insulated from such outside political and ideological pressures. [9]

Later, Smith changed his original preventive-law position and argued for a staff-attorney model based on greater and more equal access to the legal system by the poor.[10] His motive in changing his position was that he believed that the equal-access staff-attorney model was a legal aid service delivery approach that might gain the financial support and backing of the American Bar Association (ABA).[11] Smith believed that the ABA's financial support was crucial in order to enable local legal aid programs to operate independently of municipalities and local charities.[12]

4. Merkel, *supra* note 3, at 6-7.

5. *See* JOHN MACARTHUR MCGUIRE, THE LANCE OF JUSTICE: A SEMI-CENTENNIAL HISTORY OF THE LEGAL AID SOCIETY, 1876-1926, 24 (1928); *see also* Merkel, *supra* note 3, at 6-7, 13.

6. Merkel, *supra* note 3, at 13.

7. Bradway, *supra* note 1, at 9.

8. *See id.* at 58-60; *see also* Merkel, *supra* note 3, at 17-18.

9. REGINALD H. SMITH, JUSTICE AND THE POOR 176-186 (1919).

10. *Id.* at 240-49.

11. *Id.*

12. *Id.*

However, the ABA had been historically unconcerned about the legal problems of the poor. In order to persuade the ABA to support a new delivery approach in the provision of legal services to the poor, Smith argued in his famous book, *Justice and the Poor*, that:

> The effects of this denial of justice are far reaching. Nothing rankles more in the human heart than the feeling of injustice. It produces a sense of helplessness, then bitterness. It is brooded over. It leads directly to contempt for law, disloyalty to the government, and plants the seeds of anarchy. The conviction grows that law is not justice and challenges the belief that justice is best secured when administered according to law. The poor come to think of American justice as containing only laws that punish and never laws that help. They are against the law because they consider the law against them. A persuasion spreads that there is one law for the rich and another for the poor.[13]

Smith further argued that:

> The body of the substantive law, as a whole, is remarkably free from any taint of partiality. It is democratic to the core. Its rights are conferred and its liabilities imposed without respect of persons.[14]

In essence, Smith's thesis was that the poor were inhibited from access to the legal system, but there were no problems with the various substantive areas of the law. Smith stated that the end result of a legal system that denied equal access to the poor was to sow the seeds of opposition to the American political and economic system.[15] The ABA reacted positively to this argument by promoting and supporting the issue of greater access to the legal aid system by the poor at the ABA's national convention, about a year after Smith published his book. This support was also due in part to ethical legal obligations to provide legal services to all who had legal problems.

This support continued to grow. In 1920, prominent jurist Charles Evans Hughes, president of the Legal Aid Society of New York, and future Supreme Court Chief Justice, argued that if the ABA did not support legal aid, it would "foster the seeds of class revolt."[16] In 1922, the National Association of Legal Aid Organizations (which was the forerunner of the modern-day National Legal Aid and Defender's Association) was formed with the financial assistance of the Carnegie Foundation to address the issue of access by the poor to the legal system. In addition, at this time, many local and state bar associations formed their own legal aid committees to address the issues of access.

The administrative approach to the delivery of legal services under the access-oriented staff-attorney model was descendent from the original nineteenth

13. Smith, *supra* note 9, at 240-49.

14. *Id.*

15. *Id.* at 10.

16. Charles Evans Hughes, *Legal Aid Societies, Their Function and Necessity*, 45 AMERICAN BAR ASSOCIATION REPORTS 227-235 (1920).

century staff-attorney model in which local legal aid organizations established as independent corporations hired staff attorneys who provided direct legal representation of the poor. However, this new model was also based on a redirection away from financial and political support by municipalities and charities and towards the ABA and state and local bar associations. This orientation towards providing access to the legal system for as many poor people as possible also resulted in a system oriented towards serving the most clients and increasing funding allocations and away from the more activist preventive-law staff-attorney model which was oriented towards questions of access as well as the fairness of the substantive law as it pertained to poor people.[17] However, inadequate funding continued to limit the amount of poor people who obtained legal services under the access-oriented staff-attorney model.[18]

During the mid-1960s, the delivery of legal services to the poor[19] had undergone another transition with the advent of the War on Poverty and the subsequent creation of the United States Office of Economic Opportunity (OEO). In 1964, the Economic Opportunity Act created local (predominantly non-profit) Community Action Agencies (CAAs) as a method to coordinate social services, involve poor people in institutions that controlled their lives through "maximum feasible participation," and ultimately fight poverty.[20] Early in the history of OEO, legal services was considered an approach to fight poverty. Local CAAs soon received funding from OEO to engage in such efforts. This funding mechanism bypassed state and local governments as well as state and local bar associations and instead allocated money directly to CAAs which af-

17. EARL JOHNSON, JR., JUSTICE AND REFORM 12-13 (1974).

18. *Id.*

19. For the purposes of the data analysis for this paper for federal fiscal years 1988 to 1995, the poverty level of an individual or family is defined as falling on or below a combination of income and family size criteria set annually by the Legal Services Corporation. The basis for this calculation has been the minimum amount of money families need to purchase a nutritionally adequate diet on a monthly or annual basis multiplied by three. According to 45 C.F.R. § 1611.6(a):

> By January 30, 1984, and annually thereafter, the governing body of the recipient shall establish and transmit to the Corporation guidelines incorporating specific and reasonable asset ceilings, including both liquid and non-liquid assets, to be utilized in determining eligibility for services. The guidelines shall consider the economy of the service area and the relative cost-of-living of low income persons so as to ensure the availability of services to those in the greatest economic and legal need.

20. Economic Opportunity Act of 1964, 42 U.S.C. §§ 2701-2995d, § 2781 (1964). Most Community Action Agencies were established as local non-profit corporations whose mission was to alleviate the local causes of poverty through a comprehensive and centralized approach to local poverty conditions and by involving the poor in the institutions that primarily affected their lives.

forded legal aid efforts a wide degree of policy and administrative autonomy in their delivery of legal services.[21]

Within this new service delivery format, the issue soon arose as to whether local legal aid offices should emphasize providing services to a large number of individual cases or be oriented towards individual cases and class action and "impact" cases that would substantially reform substantive as well as procedural aspects of the legal system. In 1972, in response to these sometimes clashing orientations of legal services offices, Vice-President Spiro Agnew attacked nationally funded legal services as a means for social engineering by legal aid lawyers. He stated:

> Because the program is not clearly defined, some visualize it as a program for social action, while others see it as a modern federally funded legal aid program. This ambiguity has been well documented. As a result, the legal services program has gone way beyond the idea of a governmentally funded program to make legal remedies available to the indigent and now expends much of its resources on efforts to change the law on behalf of one social class—the poor.[22]

In 1974, Congress created the Legal Services Corporation (LSC) – a new independent private corporation with an eleven member board appointed by the President with the consent of the Senate.[23] The provision of legal services continued to be provided primarily through a staff-attorney model by legal aid organizations established as independent corporations. Unlike the access-oriented staff attorney model instituted by Reginald Heber Smith and the ABA in the 1920s, however, this staff-attorney model primarily derived its financial and political support through federal funds allocated by the national LSC. It was thought that this new format would insulate legal aid offices from the political pressures of affected local private and public entities who were sued by legal aid lawyers.

However, since the inception of LSC, due to various lobbying pressures on Congress, numerous restrictions have been placed on legal service activities that could be performed at local legal aid offices (see Table 1). These restrictions have primarily applied to employees of legal aid programs during their employment hours. In one case, staff attorneys were also restricted from

21. Angela Turner, *President Reagan and the Legal Services Corporation*, 15 CREIGHTON L. REV., 711, 711-13 (1981-1982).

22. Spiro Agnew, *What's Wrong with the Legal Services Programs*, 58 A.B.A. J. 930 (1972).

23. The Legal Services Corporation Act 42 U.S.C. §§ 2996-2996l (Supp. 1980) [hereinafter "LSC Act"]. Prior to 1974, the federal provision of legal services to the poor, primarily occurred through categorical grant funding by the now defunct United States Community Services Administration. The United States Community Services Administration's predecessor was the now defunct United States Office of Economic Opportunity.

running for most partisan political offices after employment hours.[24] Also, the composition of the board of directors was restricted to a board dominated by lawyers appointed by local bar associations. This was mandated by a regulation by the Legal Services Corporation that required that local legal aid governing boards be 60% lawyers, at least 33% eligible clients, and the rest persons in the community who were supportive of legal services.[25] This regulation, adopted by the Carter Administration in 1979, ensured in many instances that local lawyers and bar associations controlled legal aid policies and not the poor or their advocates who by regulatory mandate were entitled to fewer votes on local boards than bar-appointed attorney representatives.

TABLE 1

ACTIVITIES RESTRICTED SINCE THE CREATION OF THE LEGAL SERVICES CORPORATION IN 1974

RESTRICTED ACTIVITIES	STATUTORY OR REGULATORY CITE
Making Political Contributions With LSC Funds for Initiatives, Referrenda, and Recalls	42 USC, Section 2996e(d)(4)
Staff Attorneys Engaging In Partisan Activities	42 USC, Section 2996(e)(2)
Most Lobbying Activities	42 USC, Section 2996(a)(5)
Fee Generating Cases	42 USC, Section 2996f(b)(1)
Most Criminal Proceedings	42 USC, Section 2996f(b)(2)
Voter Registration Activities	42 USC, Section 2996f(b)(4)
Political Activities	42 USC, Section 2996f(b)(4)
Organizing Unions	42 USC, Section 2996f(b)(6)
Supporting Public Demonstrations, Picketing, and Strikers	42 USC, Section 2996f(b)(6)
Non-Therapeutic Abortion Cases	42 USC, Section 2996f(b)(8)
School Desegregation Cases	42 USC, Section 2996f(b)(9)
Challenging Selective Service Act	42 USC, Section 2996f(b)(10)
Challenging Census Taking (Beginning in Fiscal Year 1996)	Omnibus FY 1996 Appropriations Act, Section 504(a)(1)
Class Action Lawsuits (Beginning in Fiscal Year 1996)	Omnibus FY 1996 Appropriations Act, Section 504(a)(7)
Representing Illegal Aliens (Beginning in Fiscal Year 1996)	Omnibus FY 1996 Appropriations Act, Section 504(a)(11)
Representing Prisoners (Beginning in Fiscal Year 1996)	Omnibus FY 1996 Appropriations Act, Section 504(a)(15)
Welfare Cases on Behalf of an Individual Client That Involve Amending or Challenging Existing Law (Beginning in Fiscal Year 1996)	Omnibus FY 1996 Appropriations Act, Section 504(a)(16)
Representing Public Housing Residents Evicted for Drug Related Reasons (Beginning in Fiscal Year 1996)	Omnibus FY 1996 Appropriations Act, Section 504(a)(17)
Local Governing Boards Must Be 60% Lawyers, At Least 33% Eligible Clients, and the Rest – Persons Supportive of Legal Services	45 CFR, Part 1607.3(a)(b)(d) and (f)

24. LSC Act, *supra* note 24, at § 2996(e)(2).
25. 45 C.F.R. Part 1607.3(a), (b), (d) & (f).

Some restrictions on legal aid activities have addressed specific concerns and issues related to abortions, unions, school desegregation, criminal representation, the draft, and beginning in fiscal year 1996 due to the passage of the Omnibus Consolidated Recisions and Appropriation Act of 1996 (hereinafter "1996 Appropriations Act")[26]—prisoners, illegal aliens, census taking, welfare cases on behalf of individual clients that involve amending or challenging existing laws, and public housing residents evicted for drug related crimes. Other restrictions against lobbying, voter registration activities, demonstrations, boycotts, or strikes, involvement in referendum, recall, and initiative campaigns, political activities, and restrictions on the composition of local legal aid governing boards have affected more general service delivery orientations of local legal aid programs. These restrictions on lobbying, political activities, and organizing have restricted legal services to a staff-attorney model based predominantly on litigation approaches, in contrast to the approach of early legal aid organizations in the nineteenth century or the preventive law model first advocated by Smith in which advocacy for the legal rights of the poor was seen as a combination of litigation, lobbying, and public education efforts. In addition, the fiscal year 1996 restriction by the 1996 Appropriation Act on class action lawsuits will further restrict this litigation model to cases of a non-impact nature.[27]

Within the context of these restrictions to the federally-financed staff-attorney model, funding has traditionally failed to meet the needs of poor clients, thus continuing to restrict access to legal services.[28] Due to the passage of the 1996 Appropriations Act, LSC's funding was greatly reduced from about $400 million in fiscal year 1995, to $278 million for fiscal year 1996 and $238 million for fiscal years 1997 and 1998.[29] This funding cut has further reduced local legal aid organizations ability to meet the needs of poor clients.[30]

26. The Omnibus Consolidated Recisions and Appropriations Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321 [hereinafter "OCRAA"].

27. *Id.*

28. Robert Schmidt, *ABA Says Many Don't Get Enough Legal Help*, LEGAL TIMES, February 7, 1994, 343-379. According to Schmidt, an American Bar Association sponsored study published in February 1994, indicated that 47% of low-income and 39% of moderate-income households had at least one legal problem in 1992. *Id.* However, of these households with legal needs, only 29% of the low-income and 39% of the moderate-income households received legal help. *Id.* The study also concluded that many low and moderate income households attempted to solve their legal problems on their own; particularly in the areas of household finances, rental arrangements, real estate problems, and estate planning. *Id.*

29. OCRAA, *supra* note 27.

30. In addition, this bill also eliminates all funding for LSC's 17 support centers which traditionally have litigated class action cases in various substantive areas of the law such as housing and welfare. *See generally id.*; *see also* Statement by President William J. Clinton upon signing H.R. 3019, 32 WEEKLY COMP. PRES. DOC. 726 (Apr. 29, 1996).

As this new national legal services delivery model has continued to evolve to the present, there remain unanswered questions as to how this current system has and has not been meeting the needs of poor clients. While it is true that the federally-funded litigation-oriented staff attorney model contains significant restrictions which have curtailed certain activities and types of cases, it is not clear what recent orientation legal service delivery to the poor has taken. Has legal services to the poor generally emphasized more full-scale representation efforts such as negotiation, litigation, and administrative representation or much briefer and non-representation oriented services and routine administrative activities such as brief service, counsel and advice only, referrals after legal assessment, client withdrawal, determinations of insufficient merit to proceed, changes in client eligibility, or other non-representation reasons for closure? An understanding of these trends is crucial to obtaining a full understanding of how the national legal services model operates. In addition, it also is not clear whether in recent years legal aid litigation activities have increasingly emphasized individual client representation or more class action lawsuits with the potential to address broad structural problems in the law. An examination of both of these questions is warranted in order to provide a full picture of how the current national approach in the delivery of legal services to the poor has and has not been meeting the complex legal needs of the poor, particularly in relation to the new federal budget cuts that will severely curtail and change this national legal services delivery system.

METHODOLOGY

The time period examined will be federal fiscal years 1988 through 1995. This eight-year time frame will provide a clear picture regarding recent general national legal aid case closure activities in order to adjust for any unusual short-term trends that threaten the validity of the sampled data. This time frame also provides a basis to ascertain what national policy trends were occurring at local legal aid offices before the large budget cuts took place in fiscal year 1996 as a result of the passage of the 1996 Appropriations Act. The data which will be utilized in this analysis will be standardized LSC Case Service Report (CSR) statistics based on the method of closure of individual legal aid cases at all legal aid programs throughout the nation.[31] The different types of standardized CSR legal closure categories and statistics that will be examined will include: brief service, counsel and advice only, referral after legal assessment, negotiated settlement without litigation, client withdrew or did not return, insufficient merit to proceed, change in eligibility, other, administrative agency decision, negotiated settlement with litigation, and court decision. Each of these CSR case closure categories will be grouped into representation

31. *See* Legal Services Corp. Statistical Case Service Reports, Fiscal Years 1988-1995.

and non-representation-oriented cases and analyzed by their relative rank percentage against each other for each fiscal year from 1988 to 1995 in order to determine the overall scope and changes, if any, in legal representation activities. In this analysis, representation-oriented case closures which will be grouped together are defined as case closures which required full-scale representation resulting in time consuming court or administrative agency appearances or negotiations. The CSR case closure categories for representation-oriented cases include: negotiated settlement without litigation, negotiated settlement with litigation, court decision, and administrative agency decision. Non-representation oriented case closures which will be grouped together are defined as routine administrative actions or brief and non-representation-oriented legal advice or services. The CSR case closure categories for non-representation oriented cases will include: client withdrawals from services, determinations of insufficient merit to proceed, referrals after legal assessment, changes in client eligibility status, other, brief legal service, and counsel and advice only.

Data analysis for open class action cases will be conducted by analyzing and comparing open legal aid class action cases in federal fiscal year 1988 and 1995 as a percentage of open (and closed) court cases and as a percentage of all legal aid cases open (and also closed) during those two fiscal years. Class action cases address the problems of a larger group of clients and may also address broad structural problems in the law. In addition, key personnel[32] from the Legal Services Corporation with a familiarity with the data will be interviewed to ascertain if there was any significant and unusual seasonal fluctuations in the data over the eight year period which might offer another explanation for the general orientation of the data. This will provide a basis to gauge the overall percentage of commitment to class action cases by local legal aid programs in relation to all opened court cases and all opened legal aid cases.

RESULTS OF DATA ANALYSIS

As is indicated in Table 2 (Statistical Case Service Reports, 1988 - 1995) the actual percentage of all non-representation case closures increased from 80.28% of all case closures in fiscal year 1988 to 82.1% of all case closures in fiscal year 1995. At the same time, the percentage of all representation-oriented cases decreased from 19.72% of all cases in fiscal year 1988 to 17.9% of all case closures in fiscal year 1995. Overall, the data indicates that the relative percentage for each case closure grouping was fairly stable over the eight year time period with a large portion of case closures consistently oriented towards non-representation case activities.

32. Niki Mitchell, "Conversation With The Press Secretary Of The Legal Services Corporation Regarding Open Class Action Cases." Washington, D.C. Legal Services Corporation, February 6, 1996.

TABLE 2

RANK PERCENTAGE OF CASE CLOSURES FOR ALL LEGAL AID CASES IN THE UNITED STATES FOR FEDERAL FISCAL YEARS 1988 TO 1995

CASE CLOSURE REASON	1988	1989	1990	1991	1992	1993	1994	1995
Brief Service	309,515	305,372	330,060	334,550	341,220	355,598	371,418	363,993
Counsel and Advice Only	484,125	501,129	515,575	549,460	574,707	574,591	592,715	607,181
Referral After Legal Assessment	140,232	149,252	142,539	135,941	141,079	159,061	170,201	161,779
Client Withdrew	130,302	127,091	128,285	131,317	132,709	140,978	148,378	140,974
Insufficient Merit to Proceed	32,213	30,917	30,943	31,920	34,191	34,498	33,071	31,831
Change In Eligibility	6,923	6,846	6,811	7,303	6,433	7,243	7,876	7,772
Other	44,740	42,787	40,472	40,703	42,740	46,590	52,284	47,534
Subtotal For All Non-Representation-Oriented Cases	1,148,050	1,163,394	1,194,685	1,231,194	1,273,079	1,319,559	1,375,943	1,361,064
	(80.28%)	(80.06%)	(80.37%)	(80.78%)	(81.44%)	(81.58%)	(81.59%)	(82.1%)
Negotiated Settlement Without Litigation	51,114	49,493	47,529	47,833	47,297	45,161	44,213	43,087
Administrative Agency Decision	61,962	65,611	65,522	68,886	68,961	71,885	69,077	68,493
Negotiated Settlement With Litigation	43,468	43,111	45,626	44,715	43,177	47,571	54,946	50,990
Court Decision	125,459	131,501	133,185	131,418	130,735	133,388	142,134	134,161
Subtotal For All Representation-Oriented Cases	282,003	289,716	291,862	292,852	290,170	298,005	310,370	296,731
	(19.72%)	(19.94%)	(19.63%)	(19.22%)	(18.56%)	(18.42%)	(18.41%)	(17.9%)
Total	1,430,053	1,453,110	1,486,547	1,524,046	1,563,249	1,617,564	1,686,313	1,657,795

As can be seen from Table 3, the number of class action cases open in fiscal year 1988 was 1832, or .13% of the total open cases. The number of class action cases open in fiscal year 1995 was 630, or .0381% of the total open cases. As can be seen from Table 4, the number of class action cases open in fiscal year 1988 as a percentage of open court cases was 1.46%. The number of class action cases open in fiscal year 1995 as a percentage of open court cases was .47%.

TABLE 3

Number and Percentage of Open Class Action Cases in Comparison to Total Open Cases For Fiscal Years 1988 and 1995

	1988	**1995**
Open Class Action Cases	1832	630
Total Open Cases	1,430,053	1,657,795
Open Class Action Cases As A Percentage of Total Open Cases	.13%	.0381%

TABLE 4

Number and Percentage of Open Class Action Cases in Comparison to Total Open Court Cases For Fiscal Years 1988 and 1995

	1988	**1995**
Open Class Action Cases	1832	630
Total Open Court Cases	125,459	134,161
Open Class Action Cases As A Percentage of Total Open Court Cases	1.46%	.47%

According to Mitchell,[33] Press Secretary for the Legal Services Corporation, and her colleagues, since fiscal year 1988, "Open class action cases have been dropping and continue to do so." All of this indicates that a very small and decreasing percentage of legal aid court cases between fiscal years 1988

33. *Id.*

and 1995 were oriented towards the legal problems of a larger number of clients which also had the potential to address broad structural areas of the substantive law.

Overall, the data from fiscal year 1988 to 1995 indicates that the approach to legal services delivery by local legal aid organizations was oriented towards the handling of non-representation oriented cases. The actual legal representation of clients through negotiation, court hearings, and administrative proceedings was a small plurality of all open cases. Class action cases which involve a larger number of clients and which may address broad structural problems with the law represented a very small percentage of all open cases and all open court cases.

CONCLUSION AND DISCUSSION

The federally-funded national legal service delivery staff-attorney model which existed from federal fiscal years 1988 to 1995 was based on a litigation model with significant restrictions on lobbying, political activities, and organizing. It also substantially restricted litigation efforts related to abortions, unions, school desegregation, criminal representation, and the selective service draft. (Beginning in fiscal year 1996, litigation efforts were further restricted in relation to class action lawsuits, census taking, welfare cases on behalf of individual clients that involve amending or challenging existing law, prisoners, illegal aliens, and public housing residents evicted for drug related crimes). Within the scope of this litigation model, from 1988 to 1995, a large amount of local legal aid resources was consistently used in non-representation oriented activities. Also within this time frame, class action lawsuits which include a relatively large number of clients and which may also address significant structural legal problems represented a very small (and decreasing) portion of all legal cases handled by local legal aid organizations.

Between 1988 and 1995, the federally funded legal services model addressed various legal needs of many poor Americans. However, due to the continued underfunding of the program, statutory and regulatory restrictions on political organizing and lobbying, and restrictions on certain litigation activities, as well as local legal organizations' general orientation towards non-class action and non-representation activities, the program has not fully met the legal needs of all poor people. What is missing is the ability to address the individual legal problems of all clients as well as the structural legal problems of larger classes of clients through a broad-based approach of political organizing, education, and lobbying actions which would help to alleviate poverty. With the current federal transition in orientation of national legal aid delivery caused by large budgetary cutbacks and with various entities at the state and local levels attempting to meet the ensuing legal needs of the poor, this question of meeting the legal needs of individual and larger classes of clients

through a broad-based approach continues to be an important consideration in any future policy design of a national, state, or local delivery system of legal services to the poor.