

Client Centered Delivery of Services: Working in an Empowering Fashion with Women and Children in Family Law Matters

More than one-half of the clients seeking civil legal assistance from programs funded by the Legal Services Corporation (LSC) have problems in the area of family law. More than one-half of the clients served by LSC-funded programs are women. More than one-half of these women have children. More than one-half of these women are victims of domestic violence. They and their children generally have been subjected to physical, emotional, and/or verbal abuse. The result of such abuse has made them emotionally and economically vulnerable. Such vulnerability often precedes their first incidents of abuse. Oftentimes such emotional and economic vulnerability forces women to return to their abusive situations to the consternation of advocates who seek to help them.

What legal strategies can we use to ensure we have positively affected the lives of those who seek our assistance? How can we, as Legal Services advocates, empower women and children in family law matters? We must be cognizant that such empowerment begins with a client's initial contact with a Legal Services office and continues throughout the course of her representation by that office.

Between 60 and 70% of persons seeking assistance from a Legal Services program can have their problems resolved through information, advice or brief service, and a large portion of LSC dollars is being spent on delivering this type of service to our clients. This is certainly a way to maximize increasingly scarce financial resources; however, as we seek to maximize the services that can be delivered to clients, we should not overlook the fact we are providing services and not merely processing statistics. For women and children needing services in the family law area, advice or brief service might not be the service delivery

method needed to resolve their problem. It is apt to be a Band-Aid, when they truly require benefits and remedies that can only be provided by extended case representation. How do we provide the requisite services in times of diminished economic and personnel resources? If a particular program commits itself to provide these services, through allocation of its limited funds or through development of additional revenue sources, it must commit itself to study how meaningful and practical programs can be sustained. When clients depend on us, we are obligated to keep their trust. How to accomplish our mission requires hard work and some visioning. This paper addresses the topic in a four-step process.

The **first step** toward empowering a client is to provide her with a supportive environment. While this is an ongoing task, the groundwork must be developed at the time of her first exposure to the legal system. The client's initial contact with the Legal Services office should be as "user friendly" as possible. The intake paralegal with whom she talks should be pleasant, welcoming and able to explain, succinctly, what his or her professional role is and what the client can next expect will occur. For purposes of this paper, it is assumed the process we are discussing involves extended case representation.

In many or most LSC-funded programs, a client's initial contact is by telephone. Oftentimes, it requires great courage for a woman to make the decision to seek legal assistance as a way to resolve her problem. Typical initial contacts tend to be with an agency that provides counseling and perhaps other support to women who are victims of abuse. On-site intake at such agencies has been abandoned by many LSC-funded programs because it is viewed as not being the most economical way to use precious resources, but maintaining a positive relationship with such service providing agencies is important for the Legal Services advocate. They are a key referral source, i.e. they refer victims to the Legal Services

program and the program, in turn, refers its clients to them for the supportive services they are uniquely able to provide.

The **second step** in empowerment is knowledge. There are five components and all intertwine. First, the initial attorney-client interview affords the opportunity to elicit information from and convey information to the client. During the interview, the attorney to whom a case is assigned should strive to elicit from the client all relevant facts relating to the problem identified. Many programs utilize questionnaires, as the initial tool for providing information to an attorney about a client's situation, with the attorney-client interview following completion and return of the questionnaire. In such instances, the client should be informed as to why she needs to provide the information. Efforts should be made to tactfully determine the client's degree of literacy and whether independent completion of a questionnaire is too burdensome for the client. When the face-to-face interview finally takes place, the attorney should explain the legal process and steps that will be undertaken on her behalf so the client will know what to anticipate and understand the time frames within which events will occur. The attorney also should review the responses provided to the questionnaire with the client.

Creating an environment of mutual trust and respect between advocate and client will help to empower the client. This is the second aspect of empowerment through knowledge. To foster such an environment, the attorney should not be judgmental regarding the client's situation either by his or her comments or body language. As we try to elicit information regarding the particular situation that brought a client to us, we should try to approach topics indirectly, saying "what would your husband/boyfriend, etc. say about you, about your parenting skills, about your lifestyle?" The attorney then can explore with the client the facts

surrounding each issue the client identified, or that emerged during subsequent discussions between the attorney and client. By utilizing this nondirect approach, the client might feel more comfortable in disclosing potentially unfavorable information, which an advocate must know in order to adequately represent the client's interests. The advocate should explain why he or she needs what is very personal information and should explain the concept of confidentiality.

As we expand our work with clients who are new to America, we need to be cognizant of cultural differences. The third aspect is a need to be aware that a woman's role in other cultures may be one of subservience, that being subjected to abuse may be part of the subservience, and efforts to terminate a marriage, in these circumstances, is very courageous. It is not uncommon for a woman in such a situation to be ostracized within her community. How do we, as advocates, acquire the requisite knowledge regarding other cultures? How do we support clients whose cultural experiences may be antithetical to many of our own values? Networking with ethnic centers within our communities and providing cultural diversity training are effective ways to accomplish these goals. Importantly, we are obligated to communicate with our clients in their native language, through the use of an interpreter when appropriate, if the clients are unable to speak and understand English.

The importance of ensuring that our clients understand what we say is vital, especially given the nuances associated with interpretation of the law. We should be cognizant of the fact that interpreters may not always relate information as an attorney presents it, and, conversely they do not always report information exactly as provided by clients. When using interpreters, an attorney needs to be comfortable with the interpreter's

skills for accurate translation. When in doubt, it is incumbent upon the attorney to verify the work of the interpreter.

The attorney should give special attention to providing information to a client at a language level she understands, not being demeaning but not being pretentious. The fourth point to consider is working to avoid ambiguity or misinterpretation. An attorney should set out the duties and obligations of each party in the attorney-client relationship carefully.

Items needing specific attention include the attorney's obligation to send copies of letters and pleadings to the client, to update the client on the status of the case and to communicate with the client and obtain feedback regarding proposed settlement offers. Also, it is necessary to clarify the client's obligation to provide the attorney with updated information regarding how to make contact with her, to relate any new occurrences that might impact on her case, and to respond to inquiries from the attorney. Oftentimes, clients are extremely needy and play out this "neediness" by constantly seeking contact with and reassurance from their attorneys.

This can become problematic for the attorney and result in he or she avoiding the client by not returning telephone calls. The attorney needs to deal with this situation affirmatively and in a manner that does not fracture the attorney-client relationship. The best way to accomplish this objective is by focusing the client on information the attorney must know, and encouraging her to call only when it is necessary to provide such information.

Clients often are overwhelmed by their situations, by the economic factors affecting them, by the need to make independent decisions, perhaps for the first time in their lives, and by the need to be the person responsible for their household. This is the fifth point attorneys should consider when working to empower clients. In such situations, clients may relegate communication with their lawyer to a lower level of importance, much to the frustration of

their attorneys who are anxious to bring the cases to completion. Understanding the client's situation and attempting to connect with the client through a variety of ways, letter, telephone and e-mail, if the client has this technology available, might ameliorate this difficulty.

Additionally, an attorney needs to devise strategies so as to make him or herself available to a client who works at a job in which she only has access to the telephone at break time or during lunch.

The **third step** in empowerment involves creating an environment, outside the legal system, in which the client is able to succeed. This forces the advocate to look beyond the situation that brought the client to the Legal Services office and consider other tangential legal issues that may need to be addressed and resolved in order to maximize the likelihood of the client's staying focused and proceeding with her legal actions. Housing, employment, childcare, medical care, and/or counseling are among these "tangential" legal issues that may require resolution in order to help the clients succeed in extricating themselves permanently from problematic family law situations. The four points at this step include a legal audit, networking, counseling, and providing information.

For many years, Legal Services advocates focused on developing areas of legal specialization. Certainly it is crucial to have substantive law experts within each program, to serve as a resource for other advocates and to provide more cutting edge services to clients. Equally important is that Legal Services advocates, specializing in providing assistance in family law matters, be trained to spot issues potentially impacting other aspects of their clients' lives, ones the client did not identify as needing legal resolution. To facilitate identification of such issues, the LSC-funded program should consider developing a legal audit, or check list the advocate can review with the client. Taking the time to approach the

presenting issue systematically likely will help the attorney determine whether the client needs or wishes to have additional legal or other services made available to assist in creating an environment in which she has the greatest opportunity to make positive life changes.

Economics play a pervasive role in all of our lives. For the woman and child who have been victimized by a spouse or a person in a spousal relationship, being economically secure is an important step toward empowerment. Many women remain in abusive relationships because of economic dependence on their abuser and ensuring that they have a steady and livable income of some sort is essential to their being able to maintain their independence. Economic independence can be achieved in a variety of ways: the attorney should be able to obtain temporary child and spousal support, if the latter is appropriate; a referral should be made to the applicable human service agency to obtain interim financial assistance, food stamps, child care and health care; a referral can be made to local housing authorities to explore the feasibility of acquiring low-income housing.

Shelter issues are critically important for the woman and child leaving an abusive relationship. Invariably it is the woman and child, who are required to physically relocate. For women seeking divorce but who have not been in abusive relationships finding affordable housing also is a key issue. In matters of family law, people quickly learn that two households cannot live as cheaply as one. It is key for the Legal Services attorney to be well-connected with local and state governmental entities that might provide the described services to his or her client, as well as with local and state human service agencies and advocacy groups. The LSC-funded program can assign its case handlers the responsibility of serving as liaisons to identified advocacy agencies, ethnic outreach groups, and community action and other human services agencies in their communities so the agencies know of the

services the LSC-funded program provides, and the Legal Services attorney has a network of referral agencies for his or her client to access.

Obtaining necessary counseling services for the woman and/or child involved in an abusive situation could be the key to long-term empowerment for these individuals. The client-centered advocate generally is aware of the resources in his or her community, and should have a working relationship with lay advocates who provide supplemental services to clients wishing to avail themselves of such help. Relationships with domestic violence prevention advocates play an essential role in client empowerment. Not only do they provide the Legal Services advocate with information regarding emerging trends in the community that are confronting victims of domestic violence, but they also can educate the Legal Services attorneys regarding domestic violence issues, and the cycle of abuse and safety planning for client. In turn, the attorney can ensure the client receives information regarding safety planning and the cycle of abuse.

Advocates who work with abused women are cognizant of the fact that these women are often unable to follow through with their efforts to separate from their abusers. Key to continuing to empower these women is creating an atmosphere in the Legal Services office in which they are not judged for the decision they are making; in which they are encouraged to return in the event things do not work out as they would have wished; and in which exposure to the legal system has been a positive experience. Oftentimes, the greatest service an attorney can give a client who has decided not to proceed with her case is information regarding future safety planning.

The discussion has thus far focused on the woman who is the victim of domestic violence and the ways in which a Legal Services attorney can empower her. But what of the

other women who seek assistance in family law matters. Do the methods of empowerment for them differ from those used with women who are victims of domestic violence? Many of the methods of empowerment for these two groups are the same: knowledge, good referral mechanisms, good communication between attorney and client, and viewing the client's needs in a global manner. But the absence of violence provides other options for empowerment.

Chief among these is referral to mediation, the **fourth step**. Mediation services provide low-income persons with communication skills that they might not otherwise have had the opportunity to acquire due to limiting circumstances. Participation in mediation provides women with children with the opportunity to discuss issues of visitation, telephone contact, parental involvement and parental responsibilities with their divorcing spouse or with the father of their child(ren). Although their marriages or relationships may be ending, children will continue to bind the parties and learning ways to interact positively on matters regarding their children certainly is empowering. These communication skills can carry over into other aspects of the parties' lives and become an important step in enabling them to interact more effectively with other people. The five points to consider in this step include adaptations, priorities, access, pro bono, and assess.

Mediation services, as well as legal services, need to make adaptations in their procedures in order to make them more user friendly for low-income persons. The amount of paperwork clients need to complete and return must be kept to a minimum; the number of times a client needs to go to meetings also should be kept to a minimum; meetings must be scheduled at times that accommodate work schedules.

Often the very cases that can be sent to mediation are those not within the Legal Services' program priorities. Although such matters are important in the lives of those they affect, low-income persons who want to sever unpleasant or relationships no longer relevant, these cases, due to their relative simplicity, are the type which direct case services are not provided. What to do with these clients can be a nagging problem. Being poor should not doom a person to continue to be enmeshed in a relationship gone wrong.

Clients able to participate successfully in the mediation process can access the legal system in several ways. Pro se clinics operated by the LSC-funded program can assist them in having a mediated agreement made a binding court order. Such clinics function in a variety of ways, but the objective should be to empower and not overwhelm the client. She should be asked to do only tasks she is capable of doing. "Take home forms" and accompanying explanatory manuals are apt to frustrate more than empower the client. A more supportive pro se system may be one in which the client is "walked through" the forms she needs to complete, given instructions on how and where to file the documents, and then provided with follow up assistance in preparing a decree or order and in getting a "script" to use at a final hearing.

Pro bono attorneys can play a role in the mediation process. They, rather than the Legal Services attorney, can advise one or both parties in the mediation. It is best when both parties to mediation are on equal footing; this encourages them to complete the process. If one participant in mediation is receiving legal advice throughout the process, either through a Legal Services attorney or through a pro bono attorney, then efforts need to be made to secure the services of a pro bono attorney for the other. This process is best facilitated by state or local bar associations or Volunteer Lawyers Project within a community. At the

point in time when a mediated agreement has been reached, either a Legal Services attorney, through direct case representation or through a pro se clinic or a volunteer attorney, can file the necessary pleadings so there is a final order.

What tools should we be using to assess whether we have created an empowering environment for our clients? We should be using both qualitative and quantitative instruments. The qualitative instrument can be a client satisfaction questionnaire, in which the focus is not solely on the result obtained but on the client's experiences with the Legal Services office, e.g., promptness of returned telephone calls, receipt of documents/pleadings, courteous treatment, knowledge about the process, and willingness to use the services again. The quantitative assessment does not focus on numbers of clients served or on hours spent in working on particular cases. Rather it focuses on what we have accomplished for clients, e.g., how many women and children have we removed from abusive relationships, how many women and children have we helped to find housing or access other services. Additionally, it may be important to funding agencies for us to further quantify what we have accomplished in terms of dollars: how much in temporary and permanent child support and spousal support have we obtained for our clients, and how much in child care expenses. Our clients ultimately return these dollars to our communities and, local funding agencies like to see their dollars funneled back into their communities.

As Legal Services advocates, we have a role to play in moving our clients from dependence to independence. We should be facilitators in the empowerment process and through our clients' contact with us, and thereby with the legal system, do what we can to further our client's personal development and independence. We need to focus on helping every person seeking our legal expertise become a contributing member of society and reach

their maximum potential as independent adults. Attorneys may be the last best hope for a transfigured society. It is a responsibility that we should embrace and seek to fulfill.

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