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March 13, 2002

Ms. Randi Youells  
Vice President for Programs  
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750 First Street NE  
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Washington, DC 20002-4250

**RE: Legal Services Corporation of Delaware, Inc., Recipient No. 308010  
Response to LSC Program Letter 2000-7**

Dear Randi:

Please accept this as Delaware's response to LSC Program Letter 2000-7.

1. TO WHAT EXTENT HAS A COMPREHENSIVE, INTEGRATED CLIENT-CENTERED LEGAL SERVICES DELIVERY SYSTEM BEEN ACHIEVED IN DELAWARE?

As you know, the various legal services providers and stakeholders in Delaware have long been concerned with the issue of statewide planning, even well before the 1998 program letters, which first formally raised this issue. I would hesitate to ever state that a comprehensive, integrated client centered legal services delivery system has been achieved, since I believe that this is a constantly ongoing and evolving process, so that I do not know if it can ever accurately be said that such a system has been achieved. That said however, I believe in Delaware, the various stakeholders have made substantial and significant strides in their efforts to create such a comprehensive delivery system.

In 1995, before Legal Services Corporation of Delaware, Inc., even existed, the Bar Association in conjunction with the Delaware Supreme Court, created the Delaware State Bar Association Standing Committee on the Provision of Legal Services to Low-Income People ("The LIP Committee"). I was asked by the then-Bar Association president to join as one of the founding members of this committee, due to my past, known, interest in legal services to people with low incomes. At the time that I was asked to join this committee I was still in private practice, with no inkling that I was to become the director of a legal services program not even in existence at the time. The formation of the LIP Committee was in

response to a number of factors, including impending changes looming on the horizon for changes in federal funding for legal services, as well as pending restrictions on the use of federal legal services funding. The need for this committee, which has evolved into the primary statewide planning vehicle, became even more apparent when LSCD came into existence. At that time, the need for coordination to eliminate any confusion regarding which organization was to provide which services became paramount. As a result of the work of this committee, as well as an ad hoc committee of the leaders of the three primary legal services providers in Delaware, a statewide framework for the case type areas that each organization would handle was developed. This framework was intended to provide a division of responsibilities and substantive case law areas that each organization would handle, with the goal of actually expanding the number of areas handled, in order to meet identified client community needs, and to avoid overlap. There were a number of other issues that were also considered and dealt with by the LIP Committee. Some of these issues, most of which involved the creation of a comprehensive, integrated statewide program, were addressed early on, prior to 1998 and 1999. They are more completely described in the Statewide Planning Report for the State of Delaware, submitted in response to Program Letter 98-6 and the State Planning Update of November 30, 1999, a copy of each of which is attached hereto, and included by reference herein.

The LIP Committee, as well as the Supreme Court/Delaware State Bar Association Pro Se Litigation Committee, the other major component of the statewide planning process, addressed early on in their existence, the statewide planning matters which have grown into the creation of a comprehensive statewide delivery system. These statewide planning matters include the following:

The development and creation of the Legal Help Link, the centralized intake system, and the later expansion of that coordinated intake program statewide;

Coordination of technology among the providers including complimentary intake and case management system;

The creation of the Combined Campaign for Justice, a coordinated fund-raising campaign among the various legal services providers, and the Bar Association with the encouragement of the Supreme Court;

The creation of the State Supreme Court Pro Hacc Fund;

Joint grant proposals to HUD and the U.S. Department of Justice;

The preparation and publication of pro se materials including written instruction material, pamphlets, forms, brochures, and video tape demonstrations;

The provision of pro se and self-help seminars;

The creation of the Attorney in Court Pro Bono Program for representation for victims of domestic violence in Protection From Abuse Order cases;

Co-sponsoring free Continuing Legal Education programs for pro bono attorneys;

The creation of the Federal District Court Federal Civil Panel;

The creation of a matrix detailing unmet client community legal needs; and

The reaffirmation of the mission of the LIP Committee, specifically acknowledging Program Letter 98-6.

Since 1999, the work of the LIP Committee, the Pro Se Litigation Committee, and the legal services providers have continued and ongoing progress has been made towards the achievement of a comprehensive, integrated client centered legal services delivery system.

## 2. INTENDED OUTCOMES

In addition to those matters enumerated in the previous section, there have been a number of successful outcomes and improvements, which have been achieved since 1999. These outcomes are actually part and parcel to the description of the achievement of a comprehensive delivery system, and are actually indicative of the evolving nature of the establishment of such a system. As such, these outcomes could have, to some extent, been included in response to the previous question.

As reported previously, the Combined Campaign for Justice, which involves the efforts of the Judiciary, the organized bar, various sections of the bar, and the three legal services providers, for a combined bar fundraising campaign was very successful in its first year, more than doubling the aggregate total raised by all three of the organizations separately in the past. This success continued in 2000, with an increase even above the 1999 total and which resulted in the Delaware Bar being awarded the ABA's Harrison-Tweed Award, for the remarkably successful Combined Campaign for Justice, which was created as a result of and through the work of the LIP Committee and the three legal services organizations. In 2002, even when faced with the recession and the aftermath of September 11<sup>th</sup>, the 2001 Campaign, once again increased the totals raised for the three legal services organizations. After extensive negotiations, the three legal services providers have, within the past two weeks, entered into a three-year extension of the original agreement. One of the components of the new agreement is a change in the distribution formula, which will increase the equity of the funding.

In November 2001, as the result of work by both the Pro Se Litigation Committee and the LIP Committee, the Delaware Supreme Court passed Rule 6.5 of the Delaware Professional Conduct Rules. This new rule dispenses with certain imputed conflicts of interest with regard to short-term limited legal services, where the attorney is working under the auspices of a non-profit legal services organization. This new rule serves to increase the participation by private attorneys in short term, “unbundled” legal services, such as advice only clinics and pro se counseling programs. This has enabled greater client access to the legal system, as well as increasing the involvement by members of the private bar in the legal lives of clients.

Related to the proceeding item, and largely as the work of the Pro Se Litigation Committee, there have been held, in the last year, a number of Walk-in Assistance Program Nights. These nights have been advertised, and are held at the new Bar Association center. The purpose of these nights is to have private attorneys available to meet with people with legal problems so that they can get advice and pro se counseling. The client comes in and briefly meets with a private attorney who will review their problem and give them some brief advice or provide pro se counseling so that the client is able to proceed with representing themselves. If it appears during the meeting that the matter is too complex for brief advice, or is not amenable to the client representing themselves, then the client is referred to the appropriate legal services provider or, in the case of people who may not be eligible for free services, to the Bar Association Lawyer Referral Service. These walk-in assistance nights are on-going activities and quite clearly have been effective in involving members of the private bar in the legal lives of clients and increasing access of the client community to the justice system.

Part of the work of the Pro Se Litigation Committee has been increasing access to the courts by pro se litigants. This has been accomplished primarily in two ways. First, the committee has been working on the establishment of pro se centers in the courts. Over the past two years, the primary focus of this effort has been the establishment of pro se centers in the Family Court. Two of these pro se centers, one in Sussex County and one in Kent County have been opened, one for approximately one year and the other for approximately six months. These have been very successful and have provided assistance to a substantial number of pro se litigants in the Family Court. The decision to focus on the Family Court was due, in large part, to the Family Court having the largest pro se usage of all the courts.

The Pro Se Committee is also working with a number of other courts and bar committees that are involved with the design of the new State Justice Center, which is currently under construction, and is slated to begin occupancy in August or September, 2002. The State Justice Center, located in Wilmington, Delaware, will house most of the courts located in New Castle County. This State Justice Center is the single largest non-roads public work project in the history of the State of Delaware. The Pro Se Committee has been working with various of the other committees who are involved in the design of

this building to make sure that there is a pro se center located in this new court house. At this point in time, it appears that the pro se center located in that court house will primarily be a Family Court pro se center, which will be staffed with employees of the Family Court, although other of the courts will have pro se materials available in the pro se center, including the provision of computer and internet access, so that pro se litigants in any of the courts will have access to on-line pro se materials from any of the courts. Due to various competing interests, there has not currently been allocated as much space for the pro se center in the new courthouse as the Committee would have wished. However, it is hoped that as time goes on, and it is seen how valuable is the pro se center, not only to litigants but to the courts themselves, that there will be a re-allocation of space so that the pro se center can be expanded.

The other major work of the Pro Se Litigation Committee has been working with all of the courts on the development of various pro se materials, including brochures, pamphlets, videos, self-help materials, etc., and the development of web sites for the various courts which contain among other things, these pro se materials. This has been an ongoing process. All of the courts have pro se material on their web sites and several of the courts, those with the largest pro se clientele, have substantial pro se materials on the web sites, including forms which can be filled out on-line, printed out and submitted to the courts. This work has been done in conjunction with the various courts, the Pro Se Litigation Committee, and the legal services providers. All of the legal services providers' web sites also link to the various courts' web sites so that pro se litigants can access this pro se material by linking from the providers' web sites. All of this work by the Pro Se Litigation Committee working with the various courts and providers has successfully, statewide, made great strides toward allowing efficient access to the justice system.

In addition to those matters previously discussed, the LIP Committee has been working with the Delaware Supreme Court on two additional pro bono matters. The first issue is the amendment to the Delaware Rules of Professional Conduct, Rule 6.1, regarding pro bono service. The LIP Committee, in conjunction with the Bar Association Executive Committee, has proposed, at the request of the Supreme Court, an aspirational rule regarding pro bono service by private attorneys. This proposed rule, which would set an aspirational goal of at least 30 hours per year for each private attorney, has been formally submitted to the Supreme Court for its consideration and possible adoption.

The second matter, which while separate, is somewhat related to the proposed aspirational rule, is the pro bono recruiting effort by the LIP Committee, in assisting the Bar Association Pro Bono Program, Delaware Volunteer Legal Services. This has been an on-going project. A meeting was held with members of a sub-committee of the LIP Committee, which included me, as the Executive Director of the Legal Services Corporation of Delaware, and members of the Supreme Court, on March 11, 2002, to finalize the Supreme Court/DVLS/DSBA pro bono recruiting project. This will include

not only a general appeal to the bar for increased pro bono participation, which will be rolled out at the annual Bench and Bar Meeting in June of 2002, but will also include direct meetings between the members of the Supreme Court and the head partners of the largest law firms in Delaware. The purpose of these meetings will be to obtain a commitment from each of these law firms to providing pro bono representation through Delaware Volunteer Legal Services. It is greatly anticipated that due to the Supreme Court's direct involvement, including a letter from the Chief Justice to every Delaware attorney, and personal meetings with the managing partners of the law firms that a substantial commitment will be obtained not only from these firms, but from the members of the Bar as a whole.

Also as part of the work of the LIP Committee, a Reduced-Fee Bankruptcy project was set up, in response to an identified unmet need in the state. As Executive Director of Legal Services Corporation of Delaware, Inc., I was responsible for setting up and implementing this program. One of the identified unmet needs in the State of Delaware relates to those people and families who are in fact low income, but who do not meet the income eligibility requirements of any of the free legal services providers. While these people are, in fact, poor and do not have the resources available to pay a private attorney at the going rate, they are not eligible for free services. This issue has been confronting the bar for many years. Various attempts have been made to address this issue in the past, but all of them have been unsuccessful. It was my suggestion, that rather than try to attack the problem so broadly, as had been done in the past, that a pilot project addressing a particular discrete substantive area of law be created. The LIP Committee decided that a Reduced-Fee Bankruptcy project would make sense and I was chosen to be the initiator of this project. After a number of meetings, a panel of private attorneys was set up who agreed to serve on the panel accepting referrals of potential Bankruptcy cases which they would handle on a reduced flat fee basis. Referrals would come from either the legal services providers, who would refer the cases to the Lawyer Referral Service, or the referrals would come directly from people who had called the Lawyer Referral Service. This project became operational June 1, 2000. In the first full year of its operation it provided services to over 100 clients. The Reduced-Fee Panel is still successfully continuing, and the intention is that it will also serve as a model for other reduced fee projects in other substantive case law areas. The existence of this program has been effective in achieving service effectiveness and efficiency, equity in terms of client access, as well as greater involvement by members of the private bar in the legal lives of clients.

In 2001, the LIP Committee, working with a variety of constituents and stakeholders, including various of the courts, all of the legal services providers, the Office of the Child Advocate, the Delaware State Bar Association, various committees and sections of the bar association and with input from a variety of client and community groups who have met with various of the legal services providers, developed an updated Legal Needs Assessment. This month long process resulted in an updated matrix of legal

needs and an assessment of those areas that were being met, as well as an assessment of areas that were higher on the list of unmet client needs. This most recent assessment document has been used by a number of groups in a variety of contexts to address areas of need and client groups that have been under served. One of the groups to whom this needs assessment was provided was the Delaware Bar Foundation, which administers the IOLTA funding in the State of Delaware. As a result of their review of this document, they provided funding for additional attorneys to represent immigrants, as well as providing short term (one to two years) funding to hire private attorneys to represent parents in Dependency and Neglect and Termination of Parental Rights cases. In addition, this Unmet Needs document was provided to the Bar Association Executive Committee. They, in turn, used it as a basis for their work with the state legislature in an attempt to obtain long-term state funding for attorneys representing low-income parents in Dependency and Neglect and Termination of Parental Rights cases. This proposal is currently pending before the state legislature. It is unclear at this point in time whether the funding will be forthcoming, given the likely state budget shortfall as a result of the current recession. However, the work that was performed by the LIP Committee and the other constituent and stakeholder groups in formulating this Unmet Needs Assessment was key to providing the information to the Bar Executive Committee regarding this issue.

As a result of the success of the Combined Campaign for Justice, the Delaware Bar Foundation has created a Bar Foundation Endowment Committee, for the purposes of exploring the creation of an endowment fund or funds to provide for the long term funding of legal services for the poor. This Endowment Committee, which I, as the director of Legal Services Corporation of Delaware, Inc., am a member, has been meeting on a monthly basis for the past six months. As a result of these meetings, the committee has recommended to the full Bar Foundation that a Bar Foundation Endowment Fund be established and that each of the legal services organizations also create their own individual endowment funds. There will then be joint marketing of these endowment funds to senior members of the bar, who are most likely to make bequests to such endowment funds in their estate planning process. Although it is anticipated that this will not bring any immediate funding for legal services, such endowment campaigns for other non-profit groups in Delaware, over time, have been successful in creating endowments upwards of ten to fifteen million dollars, which in the long term can provide substantial funding for legal services. This is a very forward thinking project and one that hopefully, over the course of twenty or thirty years, will provide stable, long-term funding which will be less subject to the vagaries of politics, the economy or various market driven forces.

With respect to training, we have been successful in both cross-training attorneys in the various legal services programs, as well as in providing training for members of the private bar, pro bono and potential pro bono private attorneys. For the past two years, the three legal services providers have held a series of training programs, ostensibly for the

newer attorneys in each of the programs, although in reality these have been open to, and attended by, attorneys at all levels of experience in the three organizations. Since, for the most part, each of the three legal services organizations handle different substantive areas of the law, part of the purpose of this cross-training has been to allow attorneys from the various organizations that do not handle those type of cases to be in a position to spot potential legal issues and to be able to refer clients who may have such identified problems to the appropriate legal services provider. For instance, a client who comes to LSCD for a landlord tenant problem may, in the course of that representation present information which might bring to the attention of the LSCD attorney that the person also has a potential ADA claim, which is the type of case handled by one of the other organizations. That client then could be referred to that other organization for representation with the ADA claim. The three legal services organizations have also worked on providing free Continuing Legal Education Courses, for which credit is provided to comply with the mandatory CLE required by the Supreme Court. These free CLE courses are given in a variety of substantive case law areas and in return for receiving the free CLE's, the attendees are asked to commit to doing a certain number of pro bono cases through DVLS. This serves the purpose of providing education to the private bar on legal areas that are of concern to our client community and also has been successful in involving private attorneys in the legal lives of our clients.

Finally, in response to a request from DVLS, the ABA Center for Pro Bono Peer Consulting conducted a peer review of DVLS's pro bono program. This peer review was conducted in May of 2001 and involved meetings with the peer review team with representatives from all of the courts in Delaware, the directors of all of the legal services organizations in Delaware, members of the bar association, etc. One of the findings of the peer review was that there was an almost unprecedented level of cooperation among the LSC funded program, the non-LSC funded program, and the Bar pro bono program and that this cooperation went a long way in terms of providing a comprehensive statewide program.

### 3. ORGANIZATIONAL AND HUMAN RESOURCES MANAGEMENT CONFIGURATIONS

As long as there has been a Legal Services funded program in the State of Delaware, it has always been a single program state. There have not been any discussions, serious or otherwise, to change that configuration as to do so would simply increase the level of duplication in administration, accounting, human resources, etc. As described previously in both this report and prior reports, there are three primary legal services providers in the State of Delaware: LSCD, CLASI and DVLS. CLASI is by far the largest program in terms of funding with total funding of almost five times that of LSCD. DVLS, on paper, has a budget approximately one-half of that of LSCD's. This budget is somewhat misleading as DVLS receives a number of services for free from the Widener Law School, including all of its office

space, payroll services, and payment of DVLS's employee benefits programs, including medical and pension programs. When these are included, DVLS's funding is approximately 75% of that of LSCD's. In addition to the Legal Services Corporation grant, LSCD received \$198,000.00 from the IOLTA program, \$30,000.00 from a Department of Justice VAWA grant, and \$35,000.00 from the Combined Campaign for Justice. In total, the Legal Services Corporation funding for legal services in Delaware is approximately 11½ % of the total legal services funding for the state.

As stated previously, the legal services providers in the state have divided the substantive case law areas so that there is little overlap, and therefore little duplication in services provided by the three organizations.

Legal Services Corporation of Delaware, Inc. was originally set up to operate in an efficient, economical fashion. The goal was to have a minimum of resources directed towards administration and to make sure that high quality legal services are provided in an efficient and economical manner and to ensure that the most resources possible are directed towards fulfilling our primary mission of representing low income people. We continue to maintain our organizational configuration to make sure that we are continuing to fulfill this mission.

Please contact me, as the state contact person, at your convenience, if you have any questions regarding any of the preceding information.

Yours truly,

Douglas B. Canfield  
Executive Director