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PLEASE REPLY TO: Central Office

May 08, 2002

Tim Watson, Esquire
Program Counsel
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RE: State Justice Report for the Community of Micronesia Recipient No. 952000

Dear Tim:

Enclosed please find the State Justice Report for the Community of Micronesia from the Micronesian Legal Services Corporation (MLSC). This Report was prepared by Attorney Cynthia A. Kagidawa. Ms Kagidawa has extensive experience as a Supervising Attorney with the US Ninth Circuit Court of Appeals, among other jobs, and has taught numerous training sessions to MLSC counselors and attorneys. MLSC hired her as an outside consultant to provide LSC with an objective view of the program (see page four of Randi Youell's Program Letter 2000-7).

Tim, I want to thank you once again for taking the time to talk with me on the phone regarding this Report and giving MLSC an extension of time to file it. I enjoyed our conversation and I apologize again for the misunderstanding surrounding the date this Report was due.

Thanks for your help and interest in our program. If you have any questions or need additional information, please do not hesitate to contact me or Ms. Eugenia C. Cepeda, MLSC's Assistant Director.

Warmest regards,

Ron

Ronald G. Kirschenheiter, Esq.
MLSC Executive Director

cc. Eugenia C. Cepeda
Enclosures

STATE JUSTICE REPORT FOR THE COMMUNITY OF MICRONESIA

Prepared by Cynthia A. Kagidawa, Esq.,
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INTRODUCTION

Micronesian Legal Services Corporation (MLSC) is unlike any other domestic legal services program. The challenges faced providing legal assistance to our unique service area are very different from those encountered on the U.S. mainland or even other islands such as Hawaii or Puerto Rico. Even the concept of a state planning process must be modified for MLSC to a countrywide planning process since MLSC provides legal services to people of different countries, not just states. Thus, a description of the geographic, social and economic characteristics of the area and client population served by this legal services program is in order before addressing the questions posed in this self evaluation by and in this countrywide justice community.

The MLSC service area covers a region commonly referred to as Micronesia, which is comprised of three independent countries and a U.S. Commonwealth. This region encompasses an area larger than the continental United States, measuring approximately 3,000 miles from east to west and over 1,000 miles from north to south.

The three countries in this vast region are the Republic of the Marshall Islands (Marshalls), the Federated States of Micronesia (FSM), and the Republic of Palau (Palau). The Commonwealth of the Northern Mariana Islands (CNMI) is the newest U.S.

Commonwealth and is similar to Puerto Rico in its political relationship to the United States. Each of these countries has an executive branch, a unicameral or bicameral legislature that is elected by popular vote, and an independent judiciary.

United States statutory law and common law are persuasive but not binding precedent in these countries. Each country has its own developing court system with its own line of precedents and statutes. In addition, each country has its own legislature that writes and passes laws. Both the court systems and the legislatures reflect the social and ethnic values of the countries in interpreting and writing law. Very strong emphasis is placed throughout Micronesia on "traditional" or "customary" law as opposed to the United States common law.

In addition to its democratically elected and appointed leaders, each country in Micronesia has traditional leaders who are selected by lineage and land ownership. Although these leaders do not possess political power, they do wield relevant moral authority, and provide guidance to the people by maintaining the traditions and customs on each particular island.

The Republic of the Marshall Islands (The Marshalls)

The Republic of the Marshalls is the largest geographically of the three countries served by MLSC. It has a total land area of just over 70 square miles but is scattered over 750,000 square miles of the Pacific Ocean. The country has a total of 225 populated islands divided into 29 coral atolls, 5 low islands, and 870 reefs. It is located 2,270 miles southwest of Hawaii.

The Marshalls have an estimated population of 63,924 people, making density in the area with 899 persons per square mile. The major urban centers are Majuro, the

capital, on Majuro Atoll, with about half of the country's population and Ebeye on Kwajelein Atoll, with about 25 percent of the population. The remaining quarter of the population is scattered throughout the rest of the country. MLSC has two permanent law offices stationed on Majuro and Ebeye staffed by two attorneys, three trial counselors, and three secretaries, all of whom are Marshallese.

The Marshalls have one of the world's highest population growth rates and the country is one of the poorest countries in the Pacific. Based on the most recent census available, the population has grown at a rate of 4.1 percent annually, resulting in a birth rate of 7.2 children per family. According to the Bank of Hawaii's *Pacific Economic Report,* one of the most reliable indicators for the area, not only are the people of the Marshalls extremely poor but they are getting poorer each year. In 1996 real per capita gross domestic product (GDP) fell 14.7 percent. In 1996 real per capita GDP was $1,195, the lowest since 1985 when it was $1,127. By comparison, the State of Hawaii has a per capita GPD of $29,164. In macroeconomic terms, all gains in per capita income between 1985 and 1995 were wiped out in 1996 because of widespread weaknesses in economic production and distribution activities. It is estimated that the economy has gotten even worse since 1996.

The Federated States of Micronesia (FSM)

The FSM is the country with the largest population in Micronesia with a total land area of 271 square miles. It consists of 607 small islands scattered across more than 1,000,000 square miles of the Pacific Ocean. The FSM is located about 2,500 miles west of Hawaii and extends over 1,700 miles from Kosrae in the east to Yap in the west. The FSM's estimated population is 107,008 in 2000.

The FSM is divided into four states: Kosrae, Pohnpei, Chuuk and Yap. Kosrae, the smallest state, has a land area of 42.31 square miles and a population of 7,317. It alone in the FSM has no outer islands. Pohnpei is the largest state with a total land area of 133.4 square miles of which 130 square miles belong to Pohnpei proper. Pohnpei is also the capital and commercial center of the FSM. The entire state is comprised of 25 smaller islands and 137 scattered coral reefs. It has a population of 33,692. Chuuk's total land area is 49.2 square miles comprised of 98 islands. These islands are roughly surrounded by a coral reef, which forms the 800-square mile world famous Chuuk lagoon. Chuuk's population is 53,319, which is about half of the total FSM population. Yap is the westernmost of the four FSM states and is frequently considered the most traditional. It is comprised of four large and several small islands and 134 islets. It has a total land area of 42.3 square miles and a population of 11,178, the majority of whom live on Yap proper.

The FSM has a per capita GDP of approximately $1,600 with a population growth rate of 2.8 percent per year. As with the Marshalls, however, the interplay between the population's growth and the stagnant or declining economy, means that the FSM citizens are actually becoming poorer each year. While the GDP has declined annually, the population has grown. Since the per capita income does not match the population growth, the actual standard of living has continued to decline throughout the FSM.

MLSC has permanent law offices in each of the four FSM states, staffed by seven attorneys, eleven trial counselors, four law clerks and eight secretaries. Except for one U.S. attorney, all of the MLSC staff were born and raised on the islands where they work. The local staffing is absolutely necessary because although English is the common language of government and commerce in the FSM, it is the second language for everyone. Each state has at least one language of its own but there are over eight major languages in

addition to numerous minor languages or dialects spoken throughout the nation. While the FSM national court conducts its business in English, each of the state courts conducts its legal affairs in its own language. Most of MLSC's clients speak primarily their own language. All of the MLC staff is bilingual and many of them are fluent in three or four languages. While all of the local MLSC staff members are fluent in English, it is also the second language for each of them.

The Republic of Palau

Palau is the newest independent country in Micronesia and has a relatively bright economic future, compared to the Marshals and the FSM. It became a sovereign nation on October 1, 1994, and proudly joined the Marshalls and the FSM in the United Nations as its newest member the following year. Because of its location, relatively small population, large amounts of outside investment and wealth of natural resources, it possesses numerous potential economic advantages in comparison to its neighbors.

Palau is located 4,500 miles west of Hawaii, 15,000 miles north of Sydney, Australia, 2,500 miles south of Japan and 500 miles east of the Philippines. It has a total land area of 170.4 square miles comprised of over 200 islands, 9 of which are permanently inhabited, it has a population of over 18,146 in 1995 with a growth rate of 2.64 percent and a per capita GDP of $8,806 that is growing slowly but surely.

Although Palau's population growth rate of 2.64 percent a year is similar to other Pacific Island communities, it has Micronesia's smallest population and density rate. These factors coupled with its abundant natural and aesthetic resources, such as the world famous Rock Islands, greatly increase the likelihood of economic development in the future.

The island of Koror has only 4 percent of the country's land area but over 74 percent of the total population. Koror is the seat of the national government and the main commercial center of Palau. MLSC has a permanent office on Koror currently staffed by three attorneys, two trial counselors, and a secretary, all but one of whom are native Palauans.

The Commonwealth of the Northern Mariana Islands (CNMI)

The CNMI is the newest U.S. Commonwealth and is located 3,700 miles west of Hawaii, 1,500 miles southeast of Japan and about 1,400 miles east of China. It consists of 14 islands, 5 of which are inhabited and has a total land area of 176.5 square miles scattered over 264,000 square miles of ocean. It has a population of 69,221 based on the 2000 U.S. census. Saipan, the largest island with 46.5 square miles, is home to over 90 percent of the population. Most of the rest of the population is divided between Rota, the second largest island with 39.2 square miles, Tinian, the third largest island with 32.8 square miles.

The CNMI has one of the highest per capita incomes in the Pacific at $10,327. The population and the economy, based on tourism and garment manufacturing, have experienced tremendous growth in the last two decades since the CNMI became a U.S. commonwealth. For example, the population, primarily on Saipan, the capital of the CNMI, grew from 16,780 in 1980 to over 62,000 in 1996, an increase of over 250 percent. Tourist visitor arrivals increased from 117,149 in 1980 to 417,146 in 1990 to over 736,117 in 1996. The garment industry, which was practically nonexistent in 1980, has soared to over 10,000 mostly alien workers. The industry exports garments to the U.S. mainland at an estimated value of over $500,000,000. Unfortunately, this incredible development has

brought with it a myriad of social problems, which must be addressed by MLSC.

MLSC has two permanent offices in Saipan: the MLSC Central office, which handles the overall administration of the program and the Marianas office which provides legal assistance to qualified individuals on Saipan, Rota and Tinian. The MLSC Marianas office is staffed by three attorneys, two paralegals, two secretaries and a clerk. The attorneys are from the U.S. mainland; the rest of the staff is from the CNMI.

The Challenges of Providing Legal Services to Micronesia

As the foregoing description indicates practicing law throughout Micronesia is very different from the United States. With the exception of the CNMI, English is a very distant second language to most inhabitants of Micronesia. Technological and economic development is far behind that of the U.S. mainland. MLSC clients rarely have private telephones or even access to public telephones. Most Micronesians are subsistence farmers or fishermen or else are employed by local governments.

All of Micronesia is very poor by U.S. standards. LSC puts the official poverty rate of 167,823 for our entire service area, but it is without a doubt much higher. Over 90 percent of the population qualify for MLSC's services across Micronesia. Poverty in Micronesia is also very different than poverty in the United States. Generally, people in Micronesia live in rural settings where the traditional family unit provides the only network of support to individuals facing temporary economic hardship. Thus, issues of food, shelter, and basic health care do not present themselves as a problem for the poor in Micronesia compared with the United States and other areas of extensive industrial/urban development. As a result, there are few, if any, social programs available. For example, in the Marshalls, the FSM and Palau, there are no food stamps, welfare, subsidized federal

housing or utilities, medicare or medicaid, or similar programs. Yet with the adoption of American jurisprudential concepts, and this region's gradual introduction to the laws of the emerging global economy, access to legal services has become increasingly more essential for the poor in Micronesia.

The high value placed on the services provided by MLSC is perhaps best attested to by the Compacts of Free Association with the United States (Compacts). Although the U.S. offered commonwealth status to each of these countries along with all the aforementioned social service programs, except for the CNMI, they each turned down this offer in favor of independence. The people of these countries decided that national sovereignty and universal access to their newly adopted constitutional legal system was the best combination for them to compete and participate with the industrialized nations. Yet, under the Compacts all three countries negotiated for and obtained legal services because they were so important to the people of these countries.

The issue of a private bar is very different in Micronesia from the United States. Historically, there has been a minimum degree of private attorneys in private practice. Although MLSC serves an area larger than the continental United States, there are very few attorneys in private practice because Micronesia is so poor. The MLSC service area is very similar to that of other developing countries in Africa, Asia, or Latin America and is decades behind the United States in terms of development of economic and legal systems. Over the years, LSC has been sensitive to and understanding of the unique problems facing the program and has granted MLSC a partial or complete Private Attorney Involvement (PAI) waiver each year for the past eighteen years. Even with these PAI waivers, MLSC still writes the local bar association in the CNMI each year and asks that cases be accepted at a referral rate of $50.00 per hour and intends to continue this practice in the future.

One of the main reasons MLSC has received a PAI waiver from LSC each year is because of the very small number of private attorneys in the services area. The majority of lawyers on almost all of the islands, other than MLSC attorneys, are lawyers working for either the state government or federal government. Due to conflicts of interest and their own internal rules and regulations, they are usually not allowed to accept other cases. Aside from government lawyers and MLSC lawyers, the number of lawyers on any island is very small.

In the Marshalls, FSM, and Palau in particular, the number of private attorneys is miniscule. There are still no attorneys in private practice on four of the eight islands where we have offices. There are five attorneys on the island of Majuro, six attorneys on the island Pohnpei, and approximately twenty attorneys on the island of Palau in active private practice. The Marshalls, the FSM, and Palau are developing countries where citizens have very limited resources and incomes. Due to the extremely limited number of attorneys, the private attorneys devote their time to commercial clients who can afford an hourly rate. A private attorney's hourly rate often equals more than a month's income for a typical Micronesian.

Likewise, there are also few trial counselors in private practice in the Marshalls, FSM, and Palau. Most of these counselors have other full-time non-legal jobs and practice law on the side. There are no local private counselors in Micronesia who make their living solely from the practice of law. MLSC cannot refer PAI cases to the local trial counselors, in part because our malpractice insurance would not cover them. These individuals have no formal legal training, have never passed a bar exam, and unlike MLSC counselors are not supervised by an attorney on a daily basis. They are obviously a poor insurance risk. They are much more likely to malpractice than trained attorneys and MLSC would by liable for their mistakes.

Referrals to private attorneys are also rare because most if not all attorneys require payment before they will offer legal assistance. In addition, there are no local bar associations to promote pro bono assistance. The courts are also reticent to order private attorneys to take pro bono cases. If a private attorney accepts the occasional pro bono case, it is usually done as a rare personal favor for a MLSC attorney.

Furthermore, both the state and national courts make pro se representation difficult, if not impossible. Neither the courts nor the local legislatures guarantee legal representation in certain civil actions such as paternity suits or domestic violence cases. The courts require formal legal pleadings to conform with civil procedure rules but do not provide pro se litigants with guidance to research, draft, or submit legal briefs. The courts do offer limited law library access, but most pro se litigants are illiterate. In addition, most pro se litigants do not have access to typewriters or computers. Only the local municipal courts, which handle minor legal proceedings, accommodate pro se litigants. The other courts usually direct pro se litigants to seek assistance from MLSC.

While the number of private attorneys in the CNMI is still small, it is slightly larger than the rest of the MLSC service area. In Saipan, there are approximately forty to fifty attorneys in private practice. Thus, it is realistically possible to refer some cases to private attorneys. In the past two years, MLSC has worked closely with the local bar association to improve the number of private attorneys who represent low-income clients and will continue these efforts in the future.

Even with the small advances made in the CNMI, MLSC is effectively the only provider of legal services for low-income people throughout Micronesia. Given the small amount of resources and the few numbers of private attorneys, achieving a comprehensive, integrated client-centered legal services delivery system continues to be difficult if not impossible.

SELF EVALUATION REPORT BY COMMUNITY OF MICRONESIA

I. To what extent has a comprehensive integrated client-centered legal services delivery system been achieved in a particular state?

Legal problems for low-income people in Micronesia arise from an entirely different set of circumstances than low-income people on the U.S. mainland and in other U.S. territories. The primary difference is that prior to the introduction and adoption of a democratic constitutional style government and a legal system based on U.S. jurisprudence, the need for formal legal assistance in Micronesia was minimal. A generation earlier, the majority of legal issues were resolved informally by families or the local traditional leaders. With the advent of the U.S. legal system, however, low-income people in Micronesia now require legal assistance to help them resolve their legal issues.

Low income families in Micronesia now require legal assistance to help them resolve domestic matters such as custody, adoption and guardianship in the courts and cannot rely on families and local leaders to resolve these issues as they have in the past. The introduction of the global economy into Micronesia together with the rise in the number of Micronesians, who emigrate for economic and educational opportunities, has changed the family unit and as a result, increased the need for legal assistance. It is now commonplace for a Micronesian emigrant to either travel abroad with minors who are extended family relatives, or to leave his or her own dependents with extended relatives at home. Families now depend on the local court systems to resolve certain domestic matters with reliable and formal documentation and to confirm the legal responsibilities of the parties. Under the new legal system, Micronesians have also discovered that complex and emotional domestic matters such as divorce, spousal abuse, and child support are often best resolved with a neutral court tribunal instead of relying on resolution by interested family members or local leaders.

Prior to the introduction of western legal principles, land issues and settlements of estates were also resolved informally by family members and local leaders. However, the introduction of the statutes governing probate, written wills, and other probate instruments requires the assistance of an attorney and the court to resolve disputes over estates.

Complex consumer matters and other financial legal issues were virtually non-existent before the advent of the U.S. legal system. Before, most local economies were based on subsistence or on livestock/produce barter transactions. With the introduction of banks and other modern financial institutions, low-income people are forced to engage with the marketplace and its accompanying legal practices. Purchasing goods on credit, taking out small loans for local business ventures, entering into business deals with outside investors, and borrowing money to construct houses now require Micronesians to rely and depend on the principles of contract law and utilize the courts to assist them in seeking remedies for breached promises.

The need for legal assistant in wage claim disputes or other employment matters was not an issue in the past as most Micronesians were subsistent farmers or fishermen. With the introduction of a more complex cash economy, many Micronesians have left their subsistence work as farmers and fishermen to work as employees of local governments and local businesses. As a result, there is now a greater need for legal advice and assistance for wage and labor disputes both at the administrative level and at the court level.

Generally, the concept of governmental income maintenance programs is not a traditional concept to Micronesians. Micronesian governments offer only very rudimentary social security and health plans. Still, low-income people are not acquainted with these agencies' legal and administration procedures so they require legal assistance in presenting their applications without unnecessary delays as well as assistance in correcting costly bureaucratic errors.

Response to Issues

With the exception of the CNMI, MLSC is the only provider of reliable legal assistance for low-income people in responding to the legal issues described above all across Micronesia. Unfortunately, private attorneys in Micronesia and the local courts offer minimal support to indigent people requiring legal assistance as noted earlier in this report. Because MLSC is the only provider of reliable legal assistance to low income people in the region of Micronesia, it has prided itself on providing high quality training, access to information, and expert legal assistance in poverty law issues affecting the local communities.

Training has always received a high degree of attention from MLSC. The training process is usually daily between the U.S. attorneys and the Micronesian attorneys and trial counselors. The U.S. attorneys train counselors in relevant substantive law and advocacy skills and the MLSC attorneys and counselors train the U.S. attorneys in customary and traditional law.

For twelve of the last eighteen years, the high point of each year was as annual weeklong training event sponsored by MLSC, usually in Saipan. The training involved all of the MLSC staff including secretaries, trial counselors and attorneys but was also open to the public. The Western Regional Training Center in the United States helped organize and put on these intensive sessions. MLSC would provide funding to trainers from the United States, who were usually law professors, NITA instructors or other experienced attorneys. Due to the expenses involved, it is much more economical to bring instructors from the mainland to Micronesia, than to have MLSC staff travel to the United States. Thus MLSC staff rarely even attend training in the mainland.

These training sessions were always open, free of charge, to local attorneys and

counselors. The sessions were extremely popular and well received. This was the only time MLSC staff actually got together in the same room to discuss problems, case developments, and new rulings or court procedures. Prior to these trainings, many of MLSC's support staff and advocates had never seen or met their counterparts, even though they wrote and talked to them almost every day or week.

Unfortunately, these valuable training sessions may have become less common in recent years as a result of funding problems. The training is extremely expensive primarily because of the high costs of airfare and per diem. Micronesia is said to have the highest dollar cost per air mile of any region in the world. As a result, MLSC has decided to focus on more in-house and local training.

Since 1997, the U.S. trained lawyer assigned to the Pohnpei office periodically travels to the other FSM states to offer intensive case review and legal support to the local counselors. Also since 1998, MLSC has been offering FSM Bar reviews training for those counselors interested in sitting for the FSM Supreme Court Bar exam. The trainings have been successful as seen counselors have passed the complete bar exam and become attorneys while several other counselors have passed portions of the exam and are on their way to becoming attorneys.

Due to the shortage of local attorneys across Micronesia, MLSC has also been deeply committed to developing and strengthening the opportunities for Micronesians to attend United States law schools, become certified attorneys, and then return to assist their own people. In the summer of 1997, for example, MLSC conducted a Pre-Law School Program in Pohnpei, FSM that was open and free of charge to any Micronesian interested in attending law school. The program lasted six full weeks and involved twenty-nine students, half of whom were MLSC staff. The purpose was two-fold: first to encourage

qualified Micronesians to attend law school, and second, to give them an actual law school experience.

The program was fortunate in that Robert Desiderio, Dean and professor at the University of New Mexico Law School, and Peter Hoffman, Clinical Professor at the University of Nebraska School of Law and National Institute of Trial Advocacy Trainer, volunteered their time for the training. Each law professor taught a three-week segment of the program just as they would in the United States. The training involved courses on common law contracts, federal rules of civil procedure (which are generally followed in Micronesia), legal research, writing, and reasoning. Funding permitting, MLSC and the FSM Supreme Court hope to conduct similar training programs in the future in a continuing effort to promote the delivery of high quality legal services.

Components of the Delivery System

As the only reliable source of legal assistance to low income people in Micronesia, MLSC is the only component of the community-wide legal services delivery system. It is also important to note that MLSC is governed by a nine-member Board of Directors, which also strongly reflects the needs and interests of the community. Six of the members are chosen by their local state or national legislatures, two members are from at-large positions and one member is appointed by the only viable bar association in our service area (in the CNMI). Five of the board members are senators themselves and seven of the nine members qualify for MLSC's services. All of them live in and are active members of the client communities they represent.

MLSC has nine permanent offices on the eight islands, which have the largest populations. Each office is staffed by MLSC secretary(s), trial counselor(s) and

attorney(s). Trial counselors are different from paralegals in the United States. Although they may not have attended law school, MLSC counselors are trained legal assistants, who have a wealth of legal experience. Prior to becoming counselors, they are required to apprentice with an experienced attorney and perform certain writing and courtroom procedures. In the FSM a person can become a trial counselor by becoming certified through a newly formed legal program in lieu of the apprenticeship. This program is taught by local attorneys at the local college under the guidance of the FSM Supreme Court. Once they have completed their apprenticeship, the counselors handle cases from initial interview, through negotiation or trial, and on appeal when necessary. Each of the trial counselors is directly supervised by an experienced attorney. This training and supervision sets the trial counselors apart from other non-MLSC counselors.

The high regard in which trial counselors are held across Micronesia can be seen, for example, in the FSM where all sixteen of the state court judges and the Chief Justice of the FSM Supreme Court are former trial counselors. None of them are graduates of U.S. law schools. Micronesians do not believe that it is absolutely necessary to graduate from law school to be a good lawyer or a qualified judge. Micronesians highly value knowledge of the law, legal experience, and understanding of local customs and traditions. In both the FSM and the Marshalls it is still possible to take and pass the local bar exam to become a lawyer without graduating from law school.

In each of the MLSC offices, the client is first interviewed by a secretary to determine eligibility under LSC guidelines. The client then meets with a trial counselor or MLSC attorney to describe his or her problem. The staff then asks the client to return at a later date to learn if the case will be accepted by MLSC. The entire staff meets each week to discuss new and old cases, screen for possible conflicts, and make sure the office

priorities are followed. This general model (with some variations) continues to work well for MLSC.

Most of MLSC's cases are "brief service and advice." However, this statement can be a bit deceiving, because many simple cases such as uncontested name changes still require a court appearance in Micronesia. The vast majority of MLSC cases, however, usually settle short of litigation. This is true not only because it makes sense legally, but because Micronesian culture and tradition put heavy emphasis on consensus and reconciliation rather than conflict and confrontation. Since the islands are so small, practically everyone is either related to each other or knows each other. Litigation as commonly found in the United States remains something to be avoided unless absolutely necessary. Often lengthy confrontation through intense litigation only occurs between U.S. attorneys. Unfortunately, as the islands develop and become more "westernized," this pattern may well change.

Assessment of Performance and Equitable Legal Assistance

With respect to assessing its own performance, MLSC follows all the same criteria used by U.S. based LSC offices. As MLSC is the only provider of reliable legal assistance for low-income people in most of Micronesia, the issue of whether a statewide system works to ensure the availability of equitable legal assistance does not really apply. As stated above, each field office is sensitive to the needs of the local community, including language, cultural and location accommodations because the location and the personnel of each office represent the particular region.

When its applicable, MLSC offers clients legal assistance that promotes self-help, advice, brief service, and if necessary representation. Given MLSC's limited resources,

MLSC was unable to provide much legal education on a community-wide basis in the past. However, MLSC has recently been awarded a Technology Initiative Grant (TIG) from LSC to purchase computer equipment, software, and legal research materials to provide to the community. This TIG grant will help provide legal education access for pro se legal representation.

MLSC recognizes the need to educate both the local leaders and the courts in order to provide broader access to the legal system for low-income people. In the coming years, access should include pro se representation, pro bono programs and community legal education. One of the ways equitable access can occur is by establishing local bar associations to provide a common voice for the legal community. With the exception of the CNMI, there are no local bar association in the MLSC service area. MLSC is in the process of assisting the legal community in the formation of local bar associations. In addition, MLSC is trying to educate the local courts so they can provide minimal assistance to those indigent people who are interested in representing themselves pro se. Such assistance would include providing public access to the court law libraries, manuals to draft simple pleadings, and a rudimentary understanding of civil procedure in order for pro se litigants to guide their cases through the courts.

Technology

As a result of the state planning process, MLSC has developed and implemented a program-wide technology plan. The plan includes providing each office with reliable electricity, establishing reliable fax machines, and obtaining computers for all staff members who are either computer literate or want to become so. In addition, the plan intends to provide e-mail, internet access, and the ability to electronically transfer

documents, pleadings, and memos within and between offices.

The program has made significant progress towards achieving these goals in the last three years. Now each office has reliable electricity with the availability of gas-powered generators during regular power blackouts and brownouts. Additionally, each office has reliable and functioning fax machines. These steps may seem minor by U.S. standards, but they show significant progress in light of the problems faced by people working in Micronesia. With the help of the TIG money, MLSC will soon be establishing pro se workstations in each of our field offices.

From 1998 to the present, MLSC has made the following computer hardware acquisitions: (a) three desktop computers and two printers for the Kosrae office; (b) five desktop computers, one laptop computer, and two printers for the Pohnpei office; (c) four desktop computers and two printers for the Chuuk office; (d) one desktop computer and one printer for the Yap office; and (e) one desktop computer and one printer for the Marianas office. In addition, in the Palau office, each attorney uses his or her own laptop computer.

As a result of these computer acquisitions, most practitioners in the MLSC offices utilize a desktop computer to draft letters, research papers, pleadings and other correspondence. The computers allow the practitioners to edit and revise their product easily without relying on support staff. The computers also allow support staff to assist clients with routine pleadings, affidavits, and other brief services through the use of pre-made forms. MLSC offices have also been creating databanks of pleadings and other legal documents for future use. In addition to being more efficient, these time-savers allow the attorneys to handle larger caseloads.

With the exception of the Marshalls offices, all MLSC offices now have e-mail and

are connected to the internet. Access to the internet allows practitioners to communicate quickly and efficiently with neighboring offices and other attorneys. The internet, when it works, provides practitioners with access to legal research and other support information that is not available to them in Micronesia.

While MLSC has progressed with automated legal research, the program still has a long ways to go. Automated legal research, however, is not as important in Micronesia as in the United States for two reasons. First, U.S. decisions and statutes are not binding precedent in Micronesia jurisdictions, except for the CNMI. In fact, U.S. law may conflict with custom and tradition, which have precedence over law from other jurisdictions. Second, local decisions and statutes are only now being codified and placed in loose-leaf binders and are not available electronically. Thus, having access to automated legal research while important is not as crucial as in the United States. Networking by computer, e-mail, and similar electronic communications are still not commonplace but are becoming more readily available. MLSC plans to be on the cutting edge of these technological developments especially as they become more available and reliable.

Although the program has made significant progress in purchasing equipment and improving computer access keeping the equipment in good working order and obtaining internet access is a constant daily struggle. Most of the MLSC services areas are far behind the United States in technological and economic development. The most serious technological problems result when the computers, printers, fax machines, or copiers break down and need repairs. Trained technicians and spare parts are often in short supply on all the islands. The equipment can be shipped thousands of miles off island for repairs, but the manufacturer or repair service refuses to guarantee repairs on return because of handling by the airlines or local agencies. These are just some of the problems facing

practitioners until technology develops further in Micronesia.

Future technological initiatives are underway that will help MLSC improve its delivery system even further. To begin with, MLSC is still in the process of obtaining a computer for every practitioner in each office. In addition, MLSC has initiated a new program to assist the staff and maintain the computer systems. Each branch office is in the process of appointing a staff member to act as the computer technician for that office. This technician will be trained in basic computer repair and provide trainings to staff members on computer and internet usage. Another innovation is that each MLSC branch office is now in the process of creating an intra-network system for their computers. Once that goal is achieved, MLSC intends to create an inter-office network throughout the Micronesian community. In addition to improved efficiency, MLSC believes this internetworking will foster stronger bonds with the distant offices. It will also make it easier to share information with other offices. Finally, MLSC is currently working on obtaining legal services management software for each office. This software should help the practitioners in maintaining their cases and in retrieving client statistics and other data.

Services for Hard to Reach Groups

The issue of providing services to hard to reach groups is largely inapplicable to MLSC because the MLSC service area does not include migrant farm-workers, Native Americans, immigrants, or people confined in institutions. Extended families traditionally take care of the elderly and those people with physical and mental disabilities. As stated earlier, each field office in the MLSC system is specifically adapted to the unique geographic, cultural, and ethnic sensitivities in its particular region.

Some clients are, however, difficult to reach because they live on outer islands.

When necessary, the MLSC staff visits the outer islands by field trip ship. In such cases, because of the large distances and time factors, the MLSC attorneys are authorized to accept and if possible, immediately resolve the matter rather than wait for a staff meeting. In addition, the Yap office makes daily use of a two-way radio to confer with clients and evaluate potential cases.

Additionally, most clients are hard to reach because they have no telephone and/or they live in rural areas. In order to address this problem, most MLSC offices make regular use of the local radio station. Every island has at least one local station, which is a primary means of communication in addition to a source of information and entertainment. Since there are no local addresses and few telephones, the MLSC staff simply announces the name of the client on the radio and asks him or her to come by the office. If for some reason the client cannot come to the office, the staff will go to his or her house. This process is common when the client is elderly or infirm.

Leadership

The issue of identifying and nurturing new leaders within the legal service delivery system is largely inapplicable to MLSC. Generally, leadership in Micronesia comes from elected officials and from traditional leaders. The elected officials generally control the governmental policies and fiscal matters of the community, while the traditional leaders exert a strong moral authority and maintain the local customs and the traditions of the communities. The two groups have become interdependent on one another. New political leaders are elected through a democratic system of elections. The traditional leaders are usually selected by lineage and clan protocol. Generally, traditional leaders by definition

insist on maintaining age-old traditions and therefore are not really open to innovative changes. With respect to political leaders, they are more receptive to providing opportunities for innovation and experimentation, and supporting creative solutions to meet changing needs. Because of the nature of these complex groups and their interrelationship, MLSC as a matter of policy does not actively engage in identifying and nurturing new community leaders.

Achieving a Client-Centered Integrated and Comprehensive Delivery System

In addition, the issue of achieving a client-centered integrated and comprehensive delivery system within MLSC's service area is largely inapplicable because MLSC is the sole provider of legal assistance to low income people. Thus, no cost-benefit analysis has been made. The small number of private attorneys in MLSC's service area is the greatest obstacle to achieving an area-wide client-centered integrated delivery system. As noted above, however, MLSC's next steps include helping to form bar associations and obtaining court assistance for pro se indigents and establishing pro se work- stations. Clients will have to encourage their political and traditional leaders to provide incentives to local attorneys in order to improve pro bono access, and to the courts in order to improve pro se access.

MLSC also intends to increase legal education for the communities, which it serves. MLSC plans to join forces with other community education groups such as Micronesian Seminar or the state-run community education programs such as the Office of Public Information. In addition, MLSC intends to meet with local traditional leaders and hold joint community meetings in the local meeting houses. For example, MLSC recently held several community meetings on land rights. Finally, as noted earlier, MLSC will

continue to conduct client surveys in order to determine the needs of the communities and to better serve those communities.

In order to achieve its goals, MLSC still requires further computerization. Other resources that would help MLSC include computer training, intra-office and interoffice network training, and computer maintenance information. In addition, MLSC attorneys and trial counselors need continuing legal education, given that they are the sole providers of legal assistance to low income people in Micronesia. Finally, MLSC needs funding in order to increase community legal education within the Micronesian communities.

II. To what extent have intended outcomes of a comprehensive, integrated and client-centered legal service delivery system been achieved including but not limited to service effectiveness/quality; efficiency; equity in terms of client access; greater involvement by member of the private bar in the legal lives of clients; and client-community empowerment?

Strategies for Addressing Issues

MLSC has provided low-income people with access to legal assistance in the fastest, most efficient means possible without sacrificing quality of legal representation. MLSC will continue to provide efficient and high quality legal services in the future. As noted earlier in this report, computers, software, computer training on intra and inter office networking, computer maintenance information, continuing legal education will all help contribute to a better delivery system. In an effort to measure MLSC's success, MLSC conducts periodic surveys in the local communities to determine which legal issues are necessary and important. MLSC then integrates this information into the delivery of legal services.

Expansion of Access and Services

The issues of expanding access and services through coordination with providers throughout the service area does not apply because MLSC is the only provider of legal services in Micronesia. As noted earlier in this report, there are essentially few pro bono programs and currently no assistance for pro se litigants.

Quality of Legal Services

The qualify of legal services has improved mostly by virtue of hiring qualified personnel for MLSC and providing the best training possible. In addition with the advent of computer technology, both the quality and quantity of legal services has improved.

Equity of Client Access

The issue of equity of client access regardless of who the clients are does not apply for the most part in Micronesia. Each island is homogenous in culture, language, and class. The only possible group that might be affected by this issue is people who live in the most rural parts of the islands or who live on outer islands. As noted earlier, MLSC ensure access to these clients by visiting them in their homes or by field trip ship.

As MLSC is the sole provider of legal services to low-income people in Micronesia, the issues of resources and duplication of efforts do not apply. MLSC continues to provide high quality legal services by efficiently using its resources throughout Micronesia.

Private Attorneys

Since October 1998, what other configurations and/or approaches have been seriously explored? Were any adopted? Any rejected? Are any changes contemplated during coming year? Since October 1998, what innovative service delivery ysytem / mechanism / initiatives been adopted in the state?

As noted earlier in this report, there are very few private attorneys in the MLSC service area. Because of the small number of private attorneys, it is difficult to expand the delivery system to involve private attorneys in providing legal services to low income people. Several of MLSC's Final Monitoring Reports (on file with LSC in Washington) document the difficulties if not the impossibilities of having an effective PAI program in Micronesia. The monitors noted that both the Marshalls and the FSM "are 'third' world countries, with very limited resources and incomes," and tort recoveries are typically the "minuscule" compared to tort recoveries in the United States. They noted that "none of the private attorneys interviewed believed that legal services was accepting cases that they wished to pursue." Each private attorney indicated that legal services was performing a valuable function and that they were grateful that legal services was providing services to clients who could not afford a private attorney's hourly rate. The monitors concluded that "based on these findings, the program's PAI efforts so not appear to result in the most effective use of its resources" and recommended a complete PAI waiver.

Despite all these problems and obstacles, MLSC has made significant progress in increasing the involvement of private attorneys in the delivery of services in the CNMI. This area is the only one in MLSC's service area with enough attorneys in private practice to make such efforts worthwhile. MLSC has worked closely with the Northern Marianas Bar Association to establish the "Gimme Five" program. Under this program, the bar association asks each attorney in private practice on Saipan to accept at least five *pro bono* cases every two quarters or perform a minimum of five hours of *pro bono* services on cases every three months. The program benefits only individuals who qualify for legal assistance from MLSC under LSC income guidelines but cannot be assisted by MLSC, including but not limited to situations in which MLSC is not accepting new clients or has a

conflict or interest. Persons who have fee-generating cases are not eligible for the program.

All cases are handled on a *pro bono* basis. The CNMI Bar Association bears all out-of-pocket costs incurred in connection with the program. The Bar Association strongly encourages all attorneys to practice in the program. MLSC is responsible for keeping records and making referrals in connection with the program. MLSC keeps a master list of all the attorneys active in the program. Which includes each attorney's areas of particular interests, as well as any areas in which they do not want referrals. As program eligible cases come in to MLSC, the MLSC staff refers them to Gimmie Five program attorneys. An attorney may refuse to accept a referral in a particular case, for any reason.

Each year the CNMI Bar Association officially recognizes the attorneys who volunteer their time by taking part in the Gimmie Five program. This recognition includes a public expression of recognition to the participating attorneys, a certificate to each active attorney in the program, and a suitable prize to the "Gimmie Five Attorney of the Year." This prize is for the attorney who contributes the most hours to the program during the course of a calendar year.

This program has been successful in increasing the number of private attorneys who represent low-income clients, otherwise have sought legal assistance from MLSC or would have been denied representation. In 1998, MLSC referred 28 cases to private attorneys. In 1999, 22 attorneys again actively participated in the program. In addition, in late 1999, the Northern Marianas Bar Association, with MLSC's support, increased bar dues 50 to 100 percent. The dues increase allowed the bar association to hire a part-time executive director. The MLSC Marianas office is now exploding the possibility of transferring the administrative tasks of the "Gimmie Five" program to the bar association's

paid staff. MLSC is cautiously optimistic that private attorneys will increase their participating in the future.

Furthermore, MLSC also continues to work with the local court in Saipan, which is now ordering private attorneys to accept child support and paternity cases for individuals who are too poor to afford an attorney. These individuals would have sought assistance from MLSC or would have been denied legal representation. Under recent CNMI statutes, both indigent women and men are entitled to court-appointed counsel in paternity and support cases under the Uniform Parentage Act. In 1999, MLSC assisted 34 clients in obtaining court-appointed lawyers. Currently, private attorneys handle 173 court-appointed cases in the CNMI. MLSC also had a major success in expanding the rights of MLSC clients to court-appointed counsel for post-judgment enforcement actions.

III. Are the best organizational and human resource management configurations and approaches being used?

As noted earlier, MLSC is the only provider of legal services to low income people in Micronesia. Therefore, issues regarding the configuration of programs between LSC and non-LSC, duplication of services, and the adoption of service delivery systems do not apply.

In terms of funding, there are a very limited number of statewide financial resources available for low-income people within Micronesia. For example, there are no such common mainland resources as IOLTA accounts, senior citizen agencies, United Way or Torch Drive charities, human services departments, or state social services agencies. On the other hand, MLSC has actively pursued the primary Micronesian financial resources, the local state and national governments in each country, in an effort to increase our limited funding.

Fortunately, these efforts have met with significant success. In 1998, the program finally achieved its goal of receiving financial support from every governmental entity in our service area. This accomplishment is especially significant in light of the severe economic conditions and lack of funding facing these governments. As mentioned earlier, the governments in Micronesia are becoming poorer, especially in the FSM and the Marshalls where two thirds of the MLSC office are located. These governments are being forced to drastically cut back on government services and reduce funding. In light of these dismal economic conditions, MLSC's primary local funding objective is to retain the current level of state and national financial support or to hold any reductions to an absolute minimum.

In the last four years, MLSC has obtained the following levels of support from the following Micronesian governments:

Source	1998	1999	2000	2001
Kosrae State	$36,000	$36,000	$38,000	$38,000
Pohnpei State	$33,600	$33,600	$33,600	$33,600
Chuuk State	$8,250	$30,000	$40,000	$40,000
Yap State	$35,000	$35,000	$35,000	$41,000
FSM	$150,000	$150,000	$150,000	$150,000
Marshalls	$10,000	-0-	$30,000	$55,000
Palau	$115,000	$115,000	$115,000	$130,000
CNMI	$200,000	$172,000	$172,000	$172,000
Total Local:	$587,850	$571,600	$613,600	$659,600

All of this money was utilized to provide quality legal services to eligible clients in our service area. The money was provided by the local government for that purpose. Although separate accounts are kept, LSC and non-LSC funds are used to achieve the same goals and objectives.

Furthermore, MLSC has continued to seek and keep non-financial public resources in the form of free or reduced rent office space from the local governments. Rent by U.S.

standards is extremely high in most of Micronesia because of the small amount of available land, office and houses. After salaries and employee benefits, rent and utilities could be one of the program's largest expenses. Fortunately, five of MLSC's nine office are completely rent-free and four more are provided at a significant discount by the local government. If the fair rental value of our offices is added to our local appropriations, the program actually receives at least an additional $62,500 in local funding and in-kind contributions for a total supported level of over $720,000. This amount constitutes about thirty-five percent of the entire MLSC budget.

In return for the local government funding, MLSC has provided top quality legal representation in the past to the people of Micronesia for over thirty two years and intends to continue to provide such services in the future. This positive working relationship between MLSC, the local governments and the client community is helping to make the slogan "equal justice for all" a reality across Micronesia.