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A Community-Based Response to Welfare Reform

by Tanya Neiman

The tsunami misnamed “welfare reform” has come with a vengeance for poor people in our communities and will continue to hit relentlessly as states react to federal aid cuts.¹ Legal services programs are struggling to keep their heads above water, in part because they were overloaded before reform began. Clearly because legal services providers alone cannot respond to the needs of our communities, we are currently presented with an important opportunity to form new partnerships.

I. New Alliances Possible

Strategic partners can be found in many places. Your program is probably already working with other social service providers, if only to refer clients. This is also a time that demands immediate reassessment of program priorities, staff roles, and ways of conducting your work. Welfare reform targets the most vulnerable of our already marginally stable clients:

- Children with disabilities
- Elderly and disabled immigrants
- Mentally impaired adults with past or present drug or alcohol problems
- Single parents

Because of the array of potential clients, we must examine and then challenge the static structure of outreach and accessibility in legal services programs.

If yours is one of the many programs that have for years relied upon the “whatever comes in the door” method of client outreach, it is time to reexamine this passive way of doing business. The clients we must now reach are not going to have easy access to legal services programs. The challenges in reaching out to drug- and alcohol-addicted men and women with mental disabilities, children with disabilities, and elderly or mentally disabled immigrants who have lived for years in fear and suspicion of government programs are formidable. But they present us with an important opportunity to make essential links with the agencies serving the same client groups.

¹ This column does not attempt to explain or interpret the substantive elements of welfare reform that have been abundantly covered elsewhere. Rather, it describes one program’s successful mobilization of resources designed to address welfare reform by joining community-based agencies, client groups, and the private bar. Teresa Friend, Janet Seldon, and Rachel Shigekane contributed to this article. All three are attorneys with the San Francisco Bar Association’s Volunteer Legal Services Program (VLSP).

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Overcoming the isolation of legal services programs could be one of the few positive notes of an otherwise bleak landscape. The development of new partners in service can include a wide array of new players in our community:

- City governments
- Departments of social services
- Health departments
- School districts
- Hospitals and hospices
- Community immigration services
- Neighborhood block clubs
- Parent groups
- Children's service providers
- Mental health providers
- Drug and alcohol abuse prevention programs
- Job training programs
- Housing developers
- Homeless service providers and shelters

The revitalizing force created by a deeper connection with the community that surrounds your program can become the lifeblood for a more viable future for programs as well as clients.

II. San Francisco's Leadership

The experience of San Francisco's Volunteer Legal Services Program (VLSP) illustrates the incredible power of mobilizing the pro bono work force that has been latent in the legal services world. The time has come for programs to recognize that their work force is not contained within the four walls of a particular program. A huge pool of untapped talent is in the local bar, and many in your community are waiting to help clients with welfare reform. The San Francisco experience shows that if you create efficient and meaningful roles through which this talent can be tapped, some of the most conservative members of the bar will be inspired by a call to action to ensure fairness in the implementation of welfare reform.

There are many who are already serving those in need. If you ask around, you will see that large numbers of N400 naturalization petitions are being processed by service providers other than legal services programs. But without good legal oversight to detect clients with potential problems, many of these clients are at risk of deportation. Similarly many welfare units of local government are processing clients cut off from Supplemental Security Income (SSI) because drug and alcohol abuse was a material factor in the disability determination. Without assistance by legal advocates and doctors familiar with the parameters of continued eligibility, many clients' reapplications will be deficient simply for lack of attention.

Your program is uniquely positioned to prevent the unnecessary tragedies that are unfolding daily. Your city, county, and state government can and will see you as a new ally in the implementation of welfare reform if you approach the moment strategically and appropriately. The alliance of client organizations, community agencies, the legal services community, local bars, and local governments is needed to address successfully the needs of communities struggling with reform.

The experience in San Francisco is one illustration of many communities undergoing successful transition to respond to the challenges presented by welfare reform. Below I describe some of the specific efforts made to meet these challenges and emphasize the importance of creating mutually respectful roles for key players.

A. The Effect on Immigrants

The Personal Responsibility and Work Opportunity Reconciliation Act (PRA) was signed into law by President Clinton on August 22, 1996.² This law significantly limits the availability of many types of federal public assistance including Aid to Families with Dependent Children (AFDC), SSI, food stamps, and Medi-Cal.

One of the most serious aspects of the PRA is its effect on noncitizen legal immigrants. The PRA prohibits most legal immigrants from receiving SSI and food stamps, regardless of their age, indigence, or disability. These prohibitions are subject to only a few exceptions for refugees, asylees, U.S. veterans, and those with substantial work histories in the United States. Even if yours is one of the Legal Services Corporation (LSC)-funded programs that have decided that serving immigrants is too difficult, remember that LSC regulations allow programs to serve those who are in this country legally. Thus naturalization efforts are perfectly appropriate.

The threat to thousands of elderly, disabled, and indigent legal immigrants losing federal public assistance has sparked a citywide response.

Immigrants are targeted to shoulder almost half of the PRA's cuts. The impact on our community is staggering. In San Francisco alone approximately 17,400 legal immigrants, many of whom are elderly, are estimated to receive SSI.

With regard to AFDC/Temporary Assistance for Needy Families (TANF) and Medi-Cal, the PRA grants the states wide latitude in deciding whether such benefits will be available. For example, California will decide whether benefits will be provided to legal immigrants after their first five years of residency and whether those of them who were receiving benefits before the signing of the bill may continue to receive such benefits.

The threat to thousands of elderly, disabled, and indigent legal immigrants losing federal public assistance has sparked a citywide response. Legal services programs are in the forefront of helping coordinate that response. With San Francisco Mayor Willie Brown's progressive leadership, the city itself gave a context for organizing through its Welfare Reform Taskforce. The task force was composed of representatives from all over the community and included clients, businesses, and agencies. An immigration subcommittee, chaired by Martha Jimenez of the Mexican American Legal Defense and Education Fund, offered a context for the legal community to be fully involved in the planning of a comprehensive systematic approach to the naturalization of eligible citizens. Legal and immigrant service providers are joining forces with community agencies to naturalize qualified legal immigrants and to assist in proving that some meet an exception to citizenship. These full-service hubs accord access to the services needed to prepare for naturalization and include access to language classes.

Legal services providers, including VLSP, Asian Law Caucus, La Raza Centro Legal, and Legal Assistance to the Elderly, all sponsor training for volunteer attorneys and paralegals to assist in the naturalization process. La Raza Centro Legal, the Asian Law Caucus, and other legal services agencies have established citizenship clinics in conjunction with community groups serving immigrants. The latter are responsible for outreach and for performing initial screening functions. At these

² Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105.

clinics individuals seeking to naturalize are screened for eligibility, and N400s are prepared for those deemed eligible. Clients with complex cases meet with advocates for advice or representation.

Attorneys and paralegals help individuals complete application forms, explain the naturalization process, offer representation, and accompany individuals to Immigration and Naturalization Service (INS) interviews. Advocates will also be assisting clients on the SSI appeals process. Videotaped trainings, and advocate manuals are available to other programs interested in involving the private bar, community agencies, or client groups. Please contact VLSP managing attorney Rachel Shigekane at (415) 982-1600.

B. The Effect on Children with Disabilities

The PRA has brought drastic changes in the SSI program for children with disabilities. Children's SSI provides monthly cash benefits to an economically disadvantaged family and enables the family to support its members and helps meet the medical and educational needs of a disabled child. Most important, SSI eligibility creates access to Medi-Cal. These cash and medical benefits allow low-income families to care for their disabled children at home and minimize the risk of institutionalization.

The PRA makes it more difficult for a child to qualify for benefits because it redefines disability for children. Under the new definition a child must have a physical or mental condition or conditions that can be medically proven and that result in marked and severe functional limitations. The PRA eliminates the use of the Individualized Functional Assessment, a test developed to measure the functional limitations of certain disabling conditions, and it restricts the use of "maladaptive behavior" to determine whether a child has a mental, emotional, or behavioral disability.

Some children who are currently receiving SSI will have their cases redetermined or reevaluated to assess whether their medical conditions meet the new and more rigorous standards of disability. Over 500 families in San Francisco are at risk of losing their children's SSI eligibility through the redetermination process.

VLSP has teamed up with the National Center for Youth Law (NCYL) to address changes in the children's SSI program. VLSP and NCYL are reaching out to children's service providers through mailings, and fact sheets have been designed for parents and community-based presentations. Bay Area training sessions for families and service providers on the new SSI program have been arranged. This outreach was planned in collaboration with organizations such as Parents Helping Parents, Support for Families or Children with Disabilities, as well as our local government's Division of Mental Health Services. The Department of Mental Health helped convene meetings for relevant service providers, community agencies, and parent representatives. The Department of Human Services is doing outreach to the San Francisco Unified School District, where critical information is passed on to families through children and group presentations held by VLSP staff and volunteers.

Pro bono attorneys and paralegals are assisting families who need advocacy services to retain their children's SSI eligibility. Many families in the Bay Area will have their children's cases redetermined by the Social Security Administration (SSA) and will need legal assistance throughout the administrative review process. Beyond doing substantial outreach to clients, the parents' groups with whom we have partnered will continue to provide services to the families as they undergo the legal review process. This creates a potent force that makes the family feel both empowered and a part of the process.³

³ VLSP and the National Center for Youth Law hosted a legal advocates' training session on the changes in the children's Supplemental Security Income program in early spring. A videotape of the training is available as well as a comprehensive legal advocate manual. Please contact VLSP managing attorney Rachel Shigekane at (415) 982-1600.

C. Drug Abuse and Alcoholism

Last March President Clinton signed into law the Contract with America Advancement Act, part of which eliminated drug abuse and alcoholism as a basis for disability in both the Social Security Disability Insurance (SSDI) and SSI programs. This means that an individual is not considered disabled if alcoholism or drug addiction would be “a contributing factor material” in the determination of disability.

Recipients were allowed to reapply if they contended that they had a sufficiently disabling condition independent of drug or alcohol addiction. The SSA created a multilevel reapplication and appeal procedure.

Over 3,000 people in San Francisco were threatened with loss of their benefits. Because SSI/SSDI disability benefits are set at a level where a recipient can stay minimally housed, and because recipients automatically qualify for medical care, the projected loss of benefits created not only personal crises for thousands of individuals but also a potential public health and financial crisis for the city.

In a collaborative effort with the client-based Coalition on Homelessness, the veterans’ rights group Swords to Plowshares, and city agencies and other nonprofit organizations, VLSP’s Homeless Advocacy Project (HAP) spearheaded a major effort to assist disabled individuals whose

benefits were threatened. The Coalition on Homelessness and other community agencies conducted a massive outreach campaign. The city provided doctors to conduct the disability evaluations, which are a necessary part of the process. HAP also successfully recruited

private doctors to volunteer for this purpose. Training sessions were held for every level of the reapplication process, and extensive training materials and technical support were given to over 400 individuals and agencies. HAP staff and volunteers represented several hundred claimants directly through both our regular and special clinics. As a result, San Francisco had the highest reapplication rate in the nation—74 percent as opposed to 38 percent nationally.

HAP collaborative efforts continue as the need for more advanced training and support for complex appeals narrows potential resources. The San Francisco Neighborhood Legal Assistance Foundation has been added as a partner, and volunteer attorneys, paralegals, and law students assist clients on appeals. VLSP has just initiated a program for summer associates in law firms in conjunction with the Barristers Club through which summer associates will handle the SSI cases.⁴

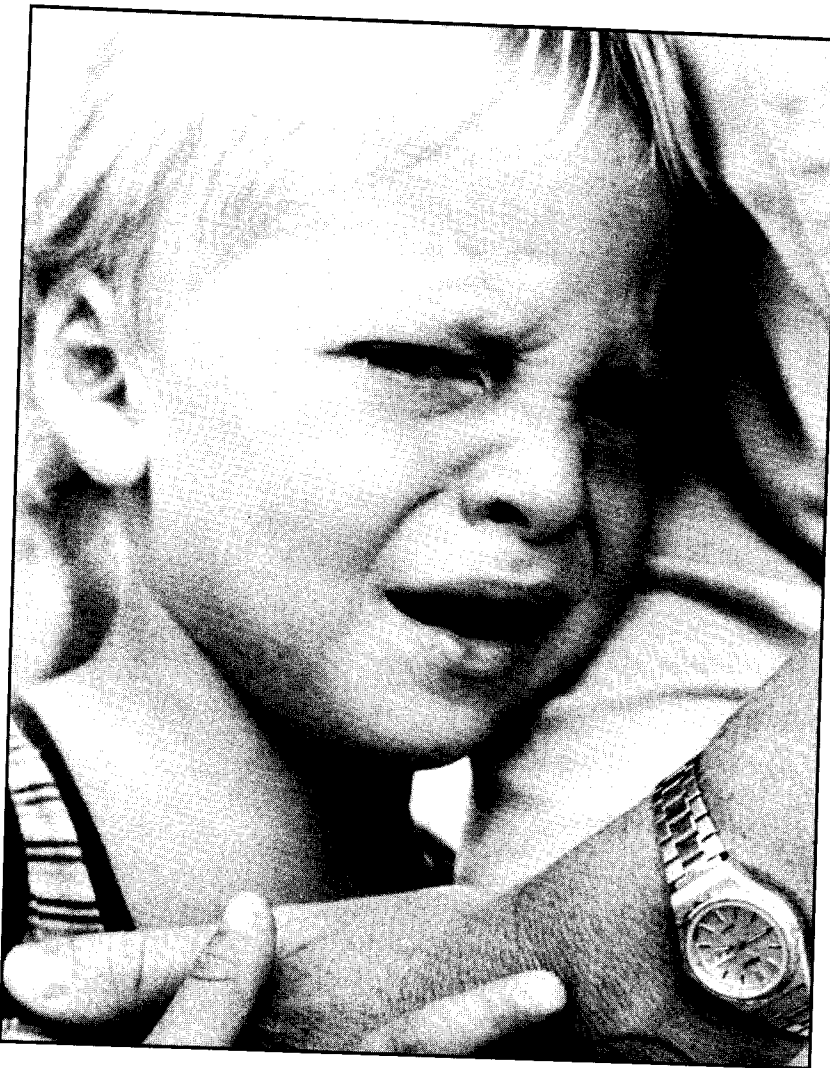
III. Conclusion

I have tried to illustrate how various elements of the community can be brought together to mount a successful assault on the huge problems created by welfare reform. The key to success is transforming your role from “provider of all services” to “mobilizer of all potential resources.” Your legal services program can play a key role by bringing together the disparate players who have a common goal: to retain and restore lifeline benefits for the most vulnerable people in our community.

Success does not require huge amounts of staff time. It requires leadership, which is sometimes in short supply during a crisis. Have the vision and courage to see how you can play a central role in transforming your clients’ lives, the vitality of your community, and the viability of your program. All three can be accomplished if you bring the key players together and create a strategic plan based on common interests.

*Envision the possibilities if we stay united
around the common interest of finding stability
for the most vulnerable among us.*

⁴ For more information or copies of the training materials and videotapes please contact VLSP’s Homeless Advocacy Project staff attorney Darlene Flanders at (415) 974-6541.



MARILYN NOLT

Conversely, if we stay mired in the past, our clients and we are doomed. It takes leadership and courage on everyone's part to overlook past lawsuits and perceived failures and to quit placing blame. You must overcome your antipathy toward the local department of health if you are to persuade it to supply you or other community advocates with doctors for disability waivers. It, in turn, must forget about your zealous defense of client rights when you may seemingly assault it in the process. Immigrant service agencies must forgive your having stopped representing their clients long ago and realize that all that matters is that you are now there to help them.

New alliances will do much more than see clients through the initial stages of the debacle of welfare reform. Envision the possibilities if we stay united around the common interest of finding stability for the most vulnerable among us. If we are willing to embrace a shift of focus from sole benefits advocacy to include job-creation strategies, we could make for greater stability for many. Flush with the victory of saving state and local governments loads of money in benefits, we may have more leverage to persuade them to support clients through the transition from welfare to work. And for those who cannot

move toward employment, perhaps the state and local governments will be persuaded to offer adequate lifelines.

The time for dialogue is today, before TANF really hits in the coming years. In cities all over California common-interest strategy is opening doors and creating a context for true change. I urge you to give it a try. Our clients deserve our best shot.