

# Clearinghouse REVIEW

November–December 2011  
Volume 45, Numbers 7–8

Journal of  
Poverty Law  
and Policy



## Should SNAP Participants Be Subject to New Identification Requirements?

Home- and Community-Based Services and the Affordable Care Act

Home Health Aides and the Fair Labor Standards Act

Foreclosures and the Equal Credit Opportunity Act

Better Pay for Legal Services Attorneys

SNAP Benefits and Fast-Food Restaurants

Access Issues in Supreme Court's 2010 Term



Sargent Shriver National Center on Poverty Law



## Creating the Legal Services Organizations Our Clients Deserve

# SALARIES and BEYOND

**Kelly Carmody**  
*President*

Carmody and Associates  
1124 E. Rose Lane #8  
Phoenix, AZ 85014  
602.277.7008  
kelly@carmodyandassociates.com

**Catherine Carr**  
*Executive Director*

Community Legal Services  
of Philadelphia  
1424 Chestnut St.  
Philadelphia, PA 19102-2505  
215.981.3700  
CCarr@clsphila.org

**Colleen Cotter**  
*Executive Director*

Legal Aid Society of Cleveland  
1223 W. Sixth St.  
Cleveland, OH 44113  
216.861.5273  
cmcotter@lasclv.org

**Steve Grumm**  
*Director of Public Service Initiatives*

National Association of Law Placement  
1220 19th St. NW Suite 401  
Washington, DC 20036  
202.296.0057  
sgrumm@nalp.org

**John E. Tobin Jr.**  
*Executive Director*

New Hampshire Legal Assistance  
117 N. State St.  
Concord, NH 03301  
603.206.2216  
jtobin@nhla.org

By Kelly Carmody, Catherine Carr, Colleen Cotter,  
Steve Grumm, and John Tobin

**T**he purpose of civil legal services organizations is to bring the ideal of equal justice under law to life for the poor, marginalized, and powerless. Legal services leaders and staff are the stewards of our organizations, but these organizations belong to our client communities and serve them, protect their rights, and give them a voice.

The essence of any legal services organization is its staff. Our highest duty is to make sure that poor people now and in the future have the most effective legal advocates working with them and for them. If justice is to be truly equal, our clients, as much as any private corporation, government agency, or wealthy individual, deserve the best and the brightest as their advocates. We should accept nothing less than the most creative, skilled, and dedicated people to serve our clients' cause.

Despite knowing that our organizations are only as good as our staff, for too many years legal services organizations have sat still as our salaries became lower and lower in comparison to other legal positions. The cost of law school has soared over the past decades and the amount of debt that new lawyers have taken on is staggering. This has caused chronic difficulties in recruiting and retaining the best staff. Yet our community gave minimal raises and pointed fingers at others. We were quick to look to law schools and government programs and funders and suggest that they needed to step in to help our low-paid, highly indebted attorneys but slow to look at our own role in underpaying staff and creating conditions that both hurt them and our programs.

We are pleased to be able to say that, even in the face of the prolonged recession and the cascade of serious budget problems it has inflicted on legal services programs, the salary situation is now changing. Across the country, legal services organizations, funders, and supporters are recognizing the need for adequate salaries for legal aid staff and moving to change from within our own programs. Here we discuss the need for this movement, describe the data that support it, and give some examples of its success.

## An Overview: Salaries and the Legal Aid Culture

Many people in legal services have long been resigned to a “Peace Corps” view that is prevalent in the outside world. In this view, all but a few of those who join us will devote a few years to our cause and live a life of temporary semipoverty but will then depart for “real jobs” for financial stability, if less personal satisfaction.<sup>1</sup>

The perpetuation and internalization of this view led our organizations to accept a constant burden of turnover and training of new staff as inevitable. Although turnover has eased temporarily during the current recession, high rates of turnover among newer legal services lawyers have been plaguing legal services organizations for decades. This turnover disrupts and decreases services to clients, and it hurts staff morale. There is also a significant financial cost, estimated by one study as \$32,549 for each attorney lost.<sup>2</sup>

A failure to retain staff has a cost in quality of work. Much of the advocacy that our clients need involves complex areas of law, and all of our clients benefit if the legal services organization that serves them has advocates with the skills, knowledge, and relationships that can lead to successful outcomes. An effective legal services organization contains a blend of highly experienced lawyers who have strong skills and great credibility in the legal community with midlevel and new advocates who bring new energy and fresh perspectives.

To create, develop, and maintain a vibrant staff of varying experience levels and skills, any organization must provide its staff with enough financial stability to

allow them to stay for the long term if they are committed and skilled. This means enabling staff members to achieve a livable middle-class standard of living, not so that they can become wealthy but so that they can pay off their school loans, buy a home, raise children if they choose, and prepare for a decent retirement. This modest version of the American Dream is consistent with our clients’ aspirations for themselves. It is not greedy or selfish but decent and fair.

Many of America’s most effective and enduring nonprofit institutions, such as hospitals and colleges, have long recognized the necessity of building an enduring staff to ensure consistent high quality of services. These institutions’ staff, leadership, and the people they serve all expect and value an organizational culture that includes decent compensation and long-term staff development. We need to create similar internal and external expectations about decent compensation, quality service, and long-term staff stability in legal services.

Providing decent salaries is not enough, however. To meet our responsibility to our clients, we must make sure that our funds are well spent. Because most of our budgets are spent on staff, we must have the courage to manage and improve our organizations humanely but diligently by using supervision and evaluations to nurture talent and remove those who are ineffective.

In the past five or six years the salary issue has finally been widely discussed in our community, and a number of legal services organizations have made progress in raising staff salaries, proving that this is a problem which can be solved.<sup>3</sup>

<sup>1</sup>Interestingly this sense of sacrifice has affected both unionized and nonunionized programs, union members and managers. The salary problem is in both types of programs. We believe that both unions and management have been complicit in accepting low salaries and that both have to work together to change our culture and practices. While we write from the managerial perspective, we believe that members of legal services unions, like other employees, can agree on the vision that we have of programs that appropriately adjust their salaries and size and expect excellence and accountability. We look forward to union leadership joining us in speaking out in support of these principles and helping work on their implementation.

<sup>2</sup>Chicago Bar Foundation & Illinois Coalition for Equal Justice, *Investing in Justice: A Framework for Effective Recruitment and Retention of Illinois Legal Aid Attorneys* (Nov. 2006), <http://bit.ly/qd3RyO> [hereinafter Chicago Report].

<sup>3</sup>*Moving from Jobs to Careers: Hiring and Retaining Quality Staff in Legal Services*, 21 MANAGEMENT INFORMATION EXCHANGE JOURNAL (Summer 2007) (multiple articles by multiple authors); *Justice and Fair Pay: an Overdue Conversation*, 24 *id.* (Fall 2010) (multiple articles by multiple authors); John Tobin, *Urgent Memo to Ourselves: Legal Services Is Not the Peace Corps (Addressing the Salary Chasm Now)*, 17 *id.* 5 (Spring 2003); John Tobin, *Lifting Staff Out of Near Poverty Will Foster, Not Inhibit Creativity and Energy*, 18 *id.* 53 (Fall 2004). For a number of years, we have been working together as an informal national task force on this issue, making presentations, writing articles for a variety of publications, and encouraging discussion at the national, regional, and local levels in our community.

## Public-Interest and Public-Sector Salaries in 2010

	YEARS OF EXPERIENCE		
	One Year or Less	Five Years	Eleven to Fifteen Years
Civil legal services	\$42,000	\$49,436	\$62,547
Public defenders	\$45,700	\$60,277	\$76,158
Prosecutors	\$50,000	\$62,317	\$81,500
Public interest organizations	\$45,000	\$53,560	\$70,875

Source: National Association for Law Placement, *New Findings on Salaries for Public Interest Attorneys* (Sept. 2010), <http://bit.ly/qrlddO>.

Comprehensive salary studies in Illinois, Florida, and California demonstrate convincingly that dramatic improvements in salaries are necessary to end chronic and debilitating turnover problems in legal aid organizations; these studies support this organizational change.<sup>4</sup>

### The Data

Three major studies and one survey have been conducted in the past five years about recruitment and retention of civil legal services attorneys; they yield a wealth of information about the subject. Notably the data show that recruitment and retention issues are remarkably similar across the United States.<sup>5</sup>

**Current Salaries.** Civil legal services attorneys are, as a whole, the lowest-paid public interest attorneys in the United States. Public defenders, prosecutors, and attorneys who work for other public interest organizations on average all make more than legal services attorneys to start and significantly more with experience (see table above). In some areas of the country, the differences are particu-

larly stark, but virtually everywhere the differences are substantial.

**Gender.** While in decades past most attorneys and thus most legal services attorneys were male, this has changed drastically in the legal services world. In 2010, of the full-time staff attorneys in organizations funded by the Legal Services Corporation (LSC), 68 percent were female, up from 36 percent in 1979.<sup>6</sup> (If part-time attorneys were included, the 2010 percentage likely would be higher.) The range from 67 percent to 73 percent of female attorneys was very similar in the Illinois, Florida, and California studies. This is true even though men are still a majority of all lawyers; for example, California State Bar members are 66 percent male.<sup>7</sup> An even larger percentage of legal services part-time attorneys are female—83 percent in Florida and 77 percent in California.<sup>8</sup>

Thus the data show that the poorly paid legal services community is also becoming predominantly female. This pattern contributes to a broader culture that pays women less for their work. Our society promotes a division of labor in which

<sup>4</sup>Chicago Report, *supra* note 2; KELLY CARMODY ET AL., FLORIDA BAR FOUNDATION & FLORIDA PROJECT DIRECTORS ASSOCIATION, *THE QUEST FOR THE BEST: ATTORNEY RECRUITMENT AND RETENTION CHALLENGES FOR FLORIDA CIVIL LEGAL AID* (Sept. 2007), <http://bit.ly/onZ6ck> [hereinafter Florida Report]; Kelly Carmody et al., *Legal Aid Association of California, Shaping the Future of Justice: Effective Recruitment and Retention of Civil Legal Aid Attorneys in California* (April 2010), <http://bit.ly/qL2rc0> [hereinafter California Report].

<sup>5</sup>Florida Report, *supra* note 4; California Report, *supra* note 4; Chicago Report, *supra* note 2; Doug German et al., *National Legal Aid and Defender Association, It's the Salaries, Stupid! ... and Much More: The Developing National Crisis in the Delivery of Legal Aid* (2007), <http://bit.ly/o5Dkwb>.

<sup>6</sup>Legal Services Corporation (LSC), Data from Bristow Hardin, Program Analyst III, Office of Program Performance, LSC (unpublished; on file with Kelly Carmody); Legal Services Corporation, *Fact Book 2010* (June 2011), <http://bit.ly/nqLO7g>.

<sup>7</sup>California Report, *supra* note 4, at 11.

<sup>8</sup>These figures are drawn from data collected for but not reported in Florida Report, *supra* note 4, and California Report, *supra* note 4 (on file with Kelly Carmody).

men more often have jobs which are financially well rewarded and women do “do-gooder” work that is supposedly held in high esteem but in fact is devalued; that our community is a participant is upsetting. We must ask ourselves why we do not value our own staff and whether gender is a part of the equation.

**Turnover.** The studies found that turnover was a significant issue in civil legal services. Low salaries are the number one reason given by attorneys who have left or think they will leave legal services organizations.<sup>9</sup> The Florida study found an annual average turnover rate of 20 percent from 2002 to 2006 with a total turnover of 39 percent over five years. The California study looked at a three-year period from 2005 to 2008 and found an annual average turnover rate of 14 percent with a total turnover of 37 percent over the three years. The average turnover, when compared to the size of the organizations (largest to smallest), ranged from 20 percent to 29 percent in Florida and 12 percent to 22 percent in California.<sup>10</sup>

Turnover rates were even more pronounced when projected. More than half of the attorneys (56 percent) in the Florida study said that they would leave in the next five years. Half of the attorneys in the California study said that they would leave in the next three years.<sup>11</sup>

The recession has slowed down turnover. Civil legal services organizations, like all employers, have seen very few individuals leave their employment voluntarily. There is reason to believe, however, that the turnover rates will increase again when the recession’s impact dissipates and more jobs open up outside legal services.

### **Opening Our Eyes About Salaries and Finding Benchmarks Beyond Legal Services**

After three to five years in a legal services organization, our staff attorneys will have usually developed significant substantive expertise, advocacy skills,

and productivity. Their value to our organizations and clients will have increased significantly. This development often occurs at the same time that they reach the stage in life when they want to buy a home, enter into a marriage or a stable long-term relationship, begin to raise a family, or start saving for retirement or all four. If our organizations cannot provide sufficient income for someone who wants to do our vital work and achieve these basic markers of a stable and happy life, we cannot pretend that we have a viable compensation system.

In deciding what salaries are fair and making adjustments, we need to learn about the salary levels of attorneys in the offices of state attorneys general, local prosecutors, county and city attorneys, public defenders, and attorneys in state and federal government, as well as attorneys in other nonprofit settings, such as colleges and hospitals. We should give more weight to those whose legal work we respect and whose reputation for the quality of their staff is the strongest. The salaries at law firms, large and small, while not the leading benchmark, can lend perspective. In the past our organizations have focused primarily on salary comparability with other legal services organizations. In view of the widespread failure, until recently, of most legal services organizations to face salary issues, we need to shift our comparison to the outside market.

### **The Difficult Choices About Organization Size and Capacity**

A short-term problem inherent in implementing a significant salary improvement plan is that higher salaries inevitably mean fewer staff members. In turn this means at least a temporary reduction in the level of services to clients. This painful likelihood should be acknowledged and discussed from the beginning. Everyone should be reminded that the salary plan is a remedial effort intended to correct a long-festering structural

<sup>9</sup>Chicago Report, *supra* note 2, at 7; Florida Report, *supra* note 4, at 65, 72; California Report, *supra* note 4, at 17.

<sup>10</sup>Florida Report, *supra* note 4, at 61; California Report, *supra* note 4, at 10.

<sup>11</sup>Florida Report, *supra* note 4, at 68; California Report, *supra* note 4, at 15.

problem that is slowly but gravely weakening the organization.

We need to remember and admit openly that we have balanced our budgets for years by asking our staff to accept less than appropriate salaries. This has enabled us to have more staff members than we can afford and provide more services to clients than is realistic with the funding we actually have. In essence, we have asked our staff to sacrifice to compensate for the larger society's failure to meet its responsibility to fund this core component of a fair legal system. We must now take a new measure of what size organization we can pay for at any given level of revenue. A new salary plan should bring our organizations to where everyone is being paid decently, so that when new staff members are added, the cost of doing so is calculated with the true cost of decent salaries in mind. Our organizations will be smaller than they would otherwise be, but they will be more effective and more just.

### The Impact of the Recession

Just as our community was starting to make real progress on raising inadequate salaries, the Great Recession swept across the country, devastated Interest On Lawyers Trust Account (IOLTA) revenues, even as it created enormous new legal needs. State funding has been reduced because of state budget difficulties, and LSC funding was cut 4 percent for the 2011 fiscal year, with an additional 2 percent appearing to be the best-case scenario for the 2012 fiscal year.<sup>12</sup> These budget setbacks have made discussing and funding increased salaries harder. However, to use this financial turmoil as an excuse to stop this effort would be shortsighted.

At some point either revenues for legal services organizations will increase to their old levels, or the current revenue levels are the new reality. If revenues

increase, our organizations should be prepared to use them to make salary adjustments. There will be an enormous temptation to use any increased funding to restore positions that were eliminated or not filled, and this impulse will be especially strong because of the ever-increasing gap between the needs of our client community and the ability of our now-smaller organizations to serve them. However, with the appropriate conviction to remedy this problem, this moment will present a great opportunity to deal with the salary problem.

In the alternative, if IOLTA revenues are not going to increase in the foreseeable future or if funding from LSC and others continues to decline, or both, our organizations will need to plan for this new reality. We will need to embrace the idea that, over the long term, the client community will be better served by a smaller but better-paid, higher-quality, and more experienced staff. The budget crisis is already compelling legal services organizations to reinvent themselves. Many programs are restructuring their intake systems, altering their staffing patterns, and rethinking their casework priorities. While we did not seek or create this time of stressful change, we should have the courage to change the way we operate fundamentally to put our programs in a stronger long-term position. Building a fair and realistic salary structure that assures our clients of talented and experienced advocates is a long-overdue step for legal services; this should not and cannot wait until an ideal future budget environment materializes.

### Beyond Salaries: Loan Assistance and Benefits

Financial realities other than salary also hamper lawyers from spending their careers working for legal services organizations. Educational debt affects the recruitment and retention of civil legal

<sup>12</sup>The Brennan Center for Justice has documented the impact of the economy on legal services programs (see Neeta Pal, Brennan Center for Justice, *Cut Off and Cut Out: Funding Shortfalls Force More Low-Income Families to Face Critical Legal Needs Alone* (April 22, 2011), <http://bit.ly/ng6ql7>). The LSC website also has information on the growing gap between the need for legal services and funding levels (see Legal Services Corporation, *Budget Request Fiscal Year 2012* (n.d.), <http://1.usa.gov/qzqGIG>). The impact of funding cuts on our ability to help victims of the recession with foreclosures has also been the subject of multiple articles in local and national news media (see, e.g., Dan Bilefsky, *Budget Cuts Imperil Aid in Foreclosure Cases*, *NEW YORK TIMES*, May 13, 2011, at A17, <http://nyti.ms/p9zjVU>).

services attorneys. Half of all civil legal services attorneys have educational debt, and all or almost all of the more recent graduates are likely to have educational debt.<sup>13</sup> A 2009 survey of law students found that nearly one-third of the students expect to graduate with more than \$120,000 in debt.<sup>14</sup> The student debt burden of legal services attorneys causes significant financial stress; this must be resolved if we want to recruit and retain the best staff. Our organizations should explore, along with attention to salaries, the creation of our own or third-party loan repayment assistance programs to ensure that student debt does not interfere with retention.

Legal services organizations must also examine the rest of their compensation packages. Time off, flexible work schedules, health insurance, retirement plans, and other benefits are factors. In fact, generous health insurance benefits and leave time are sometimes referred to by legal aid managers as justification for lower salaries. However, the studies have shown that, for purposes of recruitment and retention, even when benefits are generous, they do not make up for low salaries.<sup>15</sup>

### Performance Management

Also factors in attorney retention are performance management, professional development, and accountability. Studies on legal services attorneys show that dissatisfaction with professional development, growth, and advancement opportunities in their jobs is a key factor in attorney retention.<sup>16</sup> Some organizations' leaders use the lack of performance management systems as an excuse to keep salaries low. By implementing strong supervision, professional development, and accountability structures,

organizations will no longer have that excuse.

An essential component of good performance management is strong supervision, including formal evaluations and feedback. This means that organizations must put resources into training supervisors and must assign supervisory responsibility only to those with supervisor skills. Not all good lawyers are good supervisors, and all supervisors need training on how to conduct good evaluations. Staff members must recognize that continual development is expected even of the highest performers. Supervisors must regularly give feedback, not just at annual evaluation time. Legal services organizations must enable professional growth through training and opportunity for upward mobility. Many legal services attorneys are natural leaders who will find opportunities elsewhere if they are not given the opportunities to lead within the organization. Training should be strategic and targeted to meet the needs of clients, the organization's goals, and the staff member's goals and skills. Our organizational structures should encourage staff to take on leadership roles.

Underlying all of this is an organizational culture of accountability. Organizational leaders must hold staff members accountable for achieving the standards set for them. Managers should recognize the high achievers who produce quality work and contribute to their teams, take corrective action to improve the performance of staff members who do not produce high-quality work, and move them out of the organization when appropriate. Managers who are unwilling to deal with performance issues contribute not only poor-quality services to clients but also frustration among high performers.

<sup>13</sup>Florida Report, *supra* note 4, at 22–27; California Report, *supra* note 4, at 25–27; Kelly Carmody et al., Ohio Legal Assistance Foundation Attorney Educational Debt and Loan Repayment Survey Results (June 27, 2006) (available from Carmody and Associates).

<sup>14</sup>Law School Survey of Student Engagement, Student Engagement in Law School: Enhancing Student Learning: 2009 Annual Survey Results (n.d.), <http://bit.ly/noL6P2>.

<sup>15</sup>California Report, *supra* note 4, at 33. Note that the most relevant factors for potential leavers were salary and loan repayment assistance benefits, but retirement programs were mentioned next.

<sup>16</sup>Chicago Report, *supra* note 2, at 26, 34–35; California Report, *supra* note 4, at 38–41; German et al., *supra* note 5, at 3–5.

## High-Quality Organizations and High-Quality Staff

Attracting and keeping the best attorneys in legal services organizations depend on making sure those organizations are doing exciting, high-quality work, which has a significant impact on clients, their communities, and poverty alleviation. The studies show that making a difference for clients is a huge factor in attorney satisfaction. The best legal services attorneys infuse their work with great passion for their individual clients and for social change. Organizations that can make attorneys feel part of a team that is committed to a big vision of change are more likely to retain them. Attorneys must be given “ample and consistent opportunities to discuss the importance of their work, how their work fits into the organization’s larger vision and goals, and the overall direction of the organization.”<sup>17</sup> One young attorney writes about “the enthusiasm and energy ... in a room full of ten lawyers ..., all committed to [the organization] and all happy about working here.”<sup>18</sup> Excitement about the work and its impact and quality will attract and retain the best attorneys.

We cannot ignore that our organizations have a marketing problem with new attorneys because of a perception that the LSC restrictions forced legal services organizations out of much of the creative work in solving systemic poverty problems. While many LSC-funded organizations have demonstrated that this perception is not accurate and that work can be done within LSC constrictions, legal services organizations need to recognize and confront this issue. Again, the best way to counter this perception is by demonstrating that it is wrong; we must develop legal services organizations that do exciting work and communicate that vision and its successes.

## Tackling the Issue in the Real World: Examples from the Field

One of the best ways to understand how increased salaries can help civil legal

services organizations is to study organizations that have increased salaries. Over the past few years, civil legal organizations in New Hampshire, Pennsylvania, and Ohio have all redesigned their salary structures, and their experiences are instructive for any civil legal services organization contemplating salary increases.

**New Hampshire.** In 2002 New Hampshire Legal Assistance and the Legal Advice and Referral Center decided to create a new long-term plan for salary improvement. After reviewing salary data from a range of private- and public-sector legal employers in New Hampshire, as well as general cost-of-living data, both organizations decided to reject their old standard of salary comparability with legal services organizations in the other Northern New England states and replace it with a standard of comparability to public-sector legal employers in New Hampshire. To bring New Hampshire Legal Assistance and the Legal Advice and Referral Centers’ salaries into the range of comparability with those of other legal employers, the organizations’ boards decided that salaries would have to be raised by 20 percent, and they implemented a plan to accomplish that within three years. The boards understood that during this transition there would be some reduction in the number of staff members in order to set salaries at a level of long-term sustainability.

Since its inception, the salary improvement plan has had a dramatic positive effect on staff recruitment and retention. Talented new attorneys chose New Hampshire Legal Assistance over other legal services organizations because the starting salary was better and because they appreciated the commitment to regular increases in the scale. Retention at all experience levels also increased. Staff members understand that performance expectations are high. They realize that if they are to be paid more appropriately, they must provide consistently excellent service to their clients. New Hampshire

<sup>17</sup>German et al., *supra* note 5, at 6. See also Chicago Report, *supra* note 2, at 38 (shared focus on importance of work is factor in attorney retention).

<sup>18</sup>Gregory H. Meyers, *Lifestyles of a Legal Aid Lawyer: Is a Better Salary the Greener Grass?*, 18 MANAGEMENT INFORMATION EXCHANGE JOURNAL 50–51 (Fall 2004).

Legal Assistance has taken steps when needed to spur improved performance and hold everyone accountable.

The past three years, however, have been extremely challenging for New Hampshire Legal Assistance, which has been hit hard by the loss of half of its IOLTA funding and a 60 percent decrease in its state funds. A number of staff members proposed salary cuts of up to 20 percent to save jobs, but other staff members, at all experience levels, disagreed. New Hampshire Legal Assistance's senior management and its board did not waiver in their commitment to preserving the salary gains that had been made. Instead the organization made the hard decision to lay off staff members and prepare for a future where salaries would continue to grow.

**Philadelphia.** Over the past decade, leaders and management at Community Legal Services of Philadelphia recognized the need to raise attorney salaries. Management also knew that the historic tension with the attorneys' union, and struggles during union negotiations to minimize attorney raises, only hurt the organization and morale when indeed salaries were much too low. Attorney salaries were gradually raised over the last decade, coinciding with relatively good budget years. The union insisted that the raises be close to equal in amount for all attorneys, rather than based on salary percentages, with the result that less experienced attorneys received bigger proportional raises than higher-level attorneys and that starting salaries are getting closer to other public-sector attorney salaries, while for more experienced attorneys the gap between legal services and other public-sector law firm salaries remains large.

In 2011 the organization faced layoffs, and continuing increases in salaries are likely to be put on hold. A lesson from the Philadelphia experience is the overall organizational benefit of recognizing the need for fair salaries and joining with the union to see them raised. Reducing ten-

sion between management and the union has made the organization run better in a variety of ways and reduced time mispent in interorganizational disputes, grievances, and tension.<sup>19</sup>

**Cleveland.** The Legal Aid Society of Cleveland overhauled its compensation structure in 2007.<sup>20</sup> Cleveland Legal Aid sought to implement a compensation structure that would be competitive not only with other legal services and public interest organizations but also with local, state, and federal governments and other similarly sized nonprofit entities.

The compensation overhaul led to four changes. First, the starting salary increased by one-third. Second, Cleveland Legal Aid developed a number of new positions to allow for more upward mobility for almost all roles within the organization. Third, salaries are now based on three factors: experience, level of responsibility, and quality of work. This places additional responsibility on managers whose evaluations of staff directly affect salary and responds to the request of many staff members who prefer a compensation system that rewards high-quality work. Fourth, the compensation overhaul's review of the entire benefit package resulted in an increased contribution to staff retirement plans. These all contribute to better retention, recruitment, and staff morale.

### Communicating About the Need to Raise Salaries

Communication is critical to making change in our own legal services world among other places. Moving from hopelessness to modest progress on salaries involves several stages and requires skillful advocacy with a number of constituencies—staff, boards, funders, supporters, and our communities. We need to persuade all of these groups about the urgency and practical wisdom of improving salaries as a path to better long-term service for clients. All along the way there must be recognition and discussion of

<sup>19</sup>Catherine Carr, *Improving Management/Union Relations*, 19 MANAGEMENT INFORMATION EXCHANGE JOURNAL 16 (Summer 2005).

<sup>20</sup>Colleen M. Cotter & Stephanie M. Jackson, *Attracting and Keeping Staff with Competitive Salary and Benefits*, 24 MANAGEMENT INFORMATION EXCHANGE JOURNAL 32 (Fall 2010).

deep-seated attitudes about the societal value of legal services work and the powerful unspoken external and internal assumptions about how our organizations are to be staffed and structured.

### Board and Staff

The first step is to recognize that there is a problem to be fixed. The main questions for the board and staff of any legal services organization: (1) What blend of experience levels and skills do we need for the staff in our organization to meet our clients' needs? (2) Does our organization's salary structure enable us to build, preserve, and replenish this blend of experience levels and skills continuously over the long term? (3) Does our approach to salary reflect our values on justice? Talking honestly about these issues will create converts among the board and staff in both unionized and nonunionized programs.

A vital part of this communication must be articulating the value of legal services staff members, the need to pay them (male or female) decently, expectations of consistently high staff performance, and commitment to a strong organization for the long term. Taking the step to increase salaries significantly is momentous and may cause short-term problems and concerns, but these ultimately will be far outweighed by the enormous boost in the organization's sense of itself. Staff members who can see that the organization values them and has taken steps to pay them appropriately will be loyal, energetic, and productive. A new salary plan opens up opportunities for lateral hires of experienced staff members while lowering financial anxiety for everyone. All of this will lead back to fulfillment of the goal that everyone shares: high-quality legal services for our clients.

### Our Funders

An often-stated fear about increasing legal services salaries is that our funders will balk. In our view, this does not give funders enough credit for recognizing that we need decently paid professionals to serve our clients skillfully. Nor does this recognize that our funders' primary

reference points for salary discussions, that is, the business world, their own private lawyers, and the salaries of their friends and family members, are very different from legal services salaries. If the goal of a salary plan is to bring our salaries within the range of other public-sector salaries, we can fairly safely assume that these new salaries will still seem modest to many funders who are aware of the salaries of private attorneys and other professionals.

In our experience, once we educated funders about our salaries and how they compared to other public-sector and private law firm salaries, they usually supported our belated effort to solve the problem, and they often became enthusiastic proponents of our efforts. Funders want the organizations they support to provide services that have a strong impact in their communities. Most funders can be persuaded that decent pay attracts and retains talented people, who are then able to make the most productive and inspiring use of the funders' money.

We must also explain to funders the cost—both in money and time for training and in the quality and quantity of services delivered to clients—of the staff turnover that is precipitated by low salaries. This can be a persuasive argument for raising salaries with even the most skeptical and frugal funder.

### Our Partners and Community

When the value of government and all public spending is being challenged and public-sector workers are being attacked as being excessively compensated, to argue for more money for legal services staff may seem very daunting or even unwise. But both facts and fairness are on our side. Based on data about lagging salaries in legal services and the costs of turnover, we can make a very strong case that populating legal services organizations with talented, dedicated advocates who can remain in place makes sense in an era of scarce resources.

In the debate about the scope and role of government, we have a very compelling case to make about the role of our organi-

zations in assuring that our legal system meets our society's minimum notions of justice and fairness. The recession has had a devastating impact on millions of people who did nothing to cause it but now face urgent legal problems that affect the basics of their daily lives. Our services are critical at this time.

To correct public perceptions about wealthy lawyers, we should be clear that we are not seeking salaries comparable to those at large law firms or big corporations for a lifestyle of expensive homes, fancy cars, and lavish vacations but simply a modest middle-class standard of living.

To give our argument credibility, we must also say that, to meet our duties to our clients, we are not only deeply committed to decent salaries but also disciplined in our efforts to accept only the highest level of performance from our staff. Without an enduring commitment to accountability for staff performance, any push for better salaries will be seen as merely self-serving and will lose much credibility.

In making the case for better salaries, we can tell everyone that we know what brings people into legal services—the opportunities for creative advocacy, profoundly positive working relationships, and, most

important, providing vital service to our clients and the cause of social justice. These philosophical, political, and spiritual goals, and not our salaries, will always be the heart of what attracts and keeps people in our organizations. In seeking decent salaries for our staff, we are simply fulfilling our duty to serve our clients well by not creating or tolerating financial barriers that eventually cause our clients and our justice system great harm.



The problem of low salaries is endemic to our community. No matter how long we, as individuals, have worked in legal services, we now own this problem as a community. Particularly now, with the coming large-scale retirement of baby-boomer attorneys, and amid uncertainty about revenue streams, we must focus on the long-term strength of our organizations. We must equip a new generation of leaders to confront both old and new challenges. If we are to fulfill our mission in achieving equal justice, these emerging leaders and their colleagues must have decent competitive compensation, strong supervision, and the opportunity to develop their talents in accountable and strategic legal services organizations.



# Subscribe to CLEARINGHOUSE REVIEW!

CLEARINGHOUSE REVIEW: JOURNAL OF POVERTY LAW AND POLICY is the advocate's premier resource for analysis of legal developments, innovative strategies, and best practices in representing low-income clients. Each issue of the REVIEW features in-depth, analytical articles, written by experts in their fields, on topics of interest to poor people's and public interest lawyers. The REVIEW covers such substantive areas as civil rights, family law, disability, domestic violence, housing, elder law, health, and welfare reform.

## Subscribe today!

We offer two ways to subscribe to CLEARINGHOUSE REVIEW.

A **site license package** includes printed copies of each issue of CLEARINGHOUSE REVIEW and online access to our archive of articles published since 1967. With a site license your organization's entire staff will enjoy fully searchable access to a wealth of poverty law resources, without having to remember a username or password.

Annual site license package prices vary with your organization size and number of printed copies.

- Legal Services Corporation-funded programs: \$170 and up
- Nonprofit organizations: \$250 and up
- Law school libraries: \$500

A **print subscription** includes one copy of each of six issues, published bimonthly. Annual rates for the print-only subscription package are as follows:

- Legal Services Corporation-funded programs: \$105
- Nonprofit organizations: \$250
- Individuals: \$400

A print subscription for Legal Services Corporation-funded programs and nonprofit organizations does not include access to the online archive at [www.povertylaw.org](http://www.povertylaw.org).

Please fill out the following form to receive more information about subscribing to CLEARINGHOUSE REVIEW.

Name \_\_\_\_\_

Organization \_\_\_\_\_

Street address \_\_\_\_\_ Floor, suite, or unit \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_

My organization is

- Funded by the Legal Services Corporation
- A nonprofit
- A law school library
- None of the above

What is the size of your organization?

- 100+ staff members
- 51-99 staff members
- 26-50 staff members
- 1-25 staff members
- Not applicable

Please e-mail this form to [subscriptions@povertylaw.org](mailto:subscriptions@povertylaw.org).

Or fax this form to Ilze Hirsh at 312.263.3846.

Sargent Shriver National Center on Poverty Law  
50 E. Washington St. Suite 500  
Chicago, IL 60602

CUT HERE