



LEGAL SERVICES CORPORATION

**THE DELIVERY SYSTEMS STUDY
A POLICY REPORT
TO THE CONGRESS AND
THE PRESIDENT OF THE UNITED STATES**

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TO THE CONGRESS AND THE PRESIDENT OF THE UNITED STATES:

The Legal Services Corporation transmits this policy report to Congress and the President in fulfillment of the statutory requirement in Section 1007 (g) of the Legal Services Corporation Act. That provision requires the Corporation to undertake a "comprehensive, independent study of the existing staff attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients." The statute also requires that "based upon the results of such study," the Corporation make recommendations to the President and the Congress "concerning improvements, changes, or alternative methods for the economical and effective delivery of legal services."

The Legal Services Corporation funded 38 demonstration projects to test a variety of approaches to the delivery of legal services to the poor. The demonstrations -- all of which utilized attorneys in private practice -- included three types of judicare (pure judicare, judicare with a staff attorney component and judicare as a supplement to a staff attorney program) as well as five other delivery models: contracts with law firms as supplements to the staff attorney program, prepaid legal insurance, organized pro bono projects, legal clinics and voucher. A sample of existing staff attorney programs was included in the study to provide a standard of performance on cost, client satisfaction, quality of service and impact on a broader client population against which the alternatives and supplements were measured. The study concluded that a model was viable for consideration for local use if the model demonstrated its feasibility and if all or most of the projects did as well or better than the staff attorney programs on the four performance **measures** in the study.

In keeping with the statutory mandate to do an independent study, the Corporation formed an advisory panel composed of private attorneys, representatives of bar organizations, legal educators, legal services attorneys, and clients across the nation. They were involved in all aspects of the study. In addition, independent contractors were used to collect and analyze the performance data on the staff attorney programs and demonstration projects in the study.

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RESULTS OF POLICY ANALYSIS

The study did not identify a single **best** approach for delivering legal assistance to the poor in all circumstances. The policy analysis indicates that there are **a number of** delivery **methods**, involving staff **attorneys**, attorneys in **private practice**, and **combinations of the two**, that can **be used** to deliver effective and economical legal services if appropriate local conditions **and sound program management exist**.

None of the alternative or supplemental models **tested exceeded** the standard set by the staff attorney model. Of the eight private bar models in the study, three met all of **the tests to be** judged viable for use by Corporation **grantees**. **The models were:** judicare with a staff **component**, **contracts with private law firms as supplements to** staff **attorney programs**, and **organized pro bono projects**. Two models, **pure judicare and prepaid**, **were judged not to be viable** delivery models. The judicare **supplement to a staff attorney program** failed the impact standard, but could be a viable delivery **model in** situations **where the parent staff attorney organization would do the necessary** impact work. The two **remaining models -- voucher and legal clinic --** were not fully **tested** for different **reasons**. **Neither model met the** feasibility criteria. **Because the voucher model operated only briefly**, it could **not be tested on the performance criteria**. The performance of the legal clinics **was measured**; however, because only two clinics were **funded and** they operated in very **different ways**, **no conclusions were** drawn about the clinic model.

While this policy analysis addresses the broad question of viability of **the delivery models tested**, it does not address the question of which approach **to service delivery** is most appropriate for a particular **community situation**. The answer to that question depends on local circumstances. Further analysis of the study data, now underway, will provide information to assist in local program development.

IMPLICATIONS OF POLICY ANALYSIS

It has always been recognized in legal services that even within the staff **attorney model**, which historically has constituted the principal **method of delivery**, **there is wide variation in individual** program structure and operation because local needs, resources, priorities and other circumstances differ. Demonstration projects found the same need to adapt to local circumstances. Not surprisingly, the study found differences among programs within models that were as great as or greater than distinctions by model type. Clearly, the emphasis on local flexibility, which is at the heart of the Legal Services Corporation Act and the Corporation's own approach to program administration, has been a key to the success of this nationwide effort. It must be preserved.

The practical effect of the existing statutory approach is a mixed delivery system. While the staff attorney approach continues to be the principal method of delivery, the number and scope of projects involving attorneys in private practice has increased substantially. In 1975, when the Corporation assumed responsibility for the legal services program, it included two judicare projects, one in Wisconsin and one in West Virginia. Today the Corporation directly funds private attorney projects in 18 states, and a number of additional projects are under consideration for expansion funding in 1980. In addition, many staff attorney programs have developed working relationships with attorneys in private practice, who assist in providing service to eligible clients on both a paid and a voluntary basis. The original judicare projects the Corporation inherited in 1975 utilize staff attorneys as well; in one, reliance on the staff attorney component has increased significantly in the past five years.

There is little to be gained from continued debate about whether or not a particular model should be mandated nationally for the delivery of legal assistance to the poor. The Corporation, legal services programs, clients and the legal profession should concentrate instead on finding and developing creative local delivery systems, which include combinations of staff attorneys and lawyers in private practice where such combinations are appropriate and possible. Such efforts are essential if this nation is ever to provide comprehensive service for persons unable to afford legal assistance.

USE OF STUDY RESULTS FOR LOCAL PROGRAM DESIGN

In addition to conclusions of policy significance, this report also includes **other findings about the operations** of local legal services programs. These findings can provide **Important indicators** to planners to assess whether a particular approach that functioned well in a demonstration setting can be replicated or adapted to other local circumstances.

1. **The Need for Reduced Fees**. Data on cost indicate that a program that pays attorneys in private practice "usual and customary fees" would be too expensive to be practical. Economical utilization of private attorneys requires a willingness on their part to-participate at a reduced fee, in order to keep costs reasonable. Most of the demonstration projects were able to find attorneys and law firms willing to do so. Where low-income clients represent only a small percentage of a firm's clientele, this does not seem to create a financial problem for the attorneys. As a matter of economics, however, attorneys in private practice will be limited in the number of clients they can serve at this necessarily reduced rate.

2. **The Importance of Staff**. The policy analysis found a significant difference in the impact the delivery models had on the poverty community as a whole. Further analysis indicated that a critical factor affecting impact results is the presence of staff attorneys who

provide direct client service, either in a staff **attorney program or in** a delivery model that relies principally **on attorneys** in private practice. The Corporation considers this **finding** of major importance. Many of the unique problems that **grow out of poverty are** most effectively **addressed through representation that affects** basic constitutional and **statutory** rights, that **changes practices, and that enforces** laws already in **existence**. **Congress** specifically **established, as a** **purpose** of the Legal Services Corporation Act, **assistance to "improv(e)** opportunities for low-income persons." **Even without the statement of** **purpose, the limited nature** of public **resources** available for legal services **demands** that funds be utilized **in a way that maximizes their** effect.

3. Application of the Pro Bono Model. The Corporation studied organized pro bono projects, although Congress did not include the model in its mandate, because of the long-standing efforts to encourage this approach to providing legal services to the poor. In view of recent heightened interest in pro bono work at the national policy level, it is important to look carefully at the study results to date and the particular local circumstances in which these projects operated.

All of the pro bono projects functioned as complements to staff attorney programs that already were providing services in a community. The pro bono projects have stated that they could not provide the sole or even principal service to the poor. Each project functioned with a small paid staff that provided technical support to and continual recruitment of volunteer attorneys. In most projects, staff also provided some direct client representation. The staff component was essential to the success of these projects.

Five of the six pro bono projects operated in major urban areas with a large pool of potential participating attorneys from which to draw. The sixth was in a relatively small geographic area with both rural and urban characteristics. In these circumstances, pro bono projects demonstrated that they could provide effective and economical service, including impact work. Persons interested in developing local pro bono efforts must look closely at the demonstration projects, the difficulties they encountered and the specific factors that made them effective.

4. Quality Control. While the policy analysis found all of the models viable on the quality measure, it did reveal individual projects that received substandard quality ratings on more than 15 percent of their cases. These results underscore the essential need for quality control mechanisms -- including case review systems, training and support -- in all programs providing legal assistance to the poor. Because they were not paying attorneys for services rendered, pro bono projects had particular problems getting information from participating volunteer attorneys about the work they did for clients and the final disposition of cases. Pro bono project staff devoted substantial effort -- with some success -- to overcoming those difficulties. Such efforts are essential in a program that must be accountable to clients, to the Corporation, and ultimately to the Congress.

5. Client Choice. A number of demonstration projects attempted to provide clients the freedom to chose their own attorneys, an option that is available only to a limited extent in staff attorney programs. Project experience indicated, however, that where freedom of choice was available it was not often utilized. The voucher model was designed specifically to test the effects of client choice of delivery systems and individual attorneys. In practice, clients in the one voucher project funded rarely had a preference; therefore the project began functioning as a judicare model with a mechanism to refer clients to attorneys in private practice. Client choice was also a method of case assignment in judicare projects and in some contracts, but these projects found that most clients did not exercise their option to choose an attorney.

6. Need for Increased Service. The Corporation calls attention to what this study reveals about the unmet need for legal services for the poor. The Corporation and Congress have recognized that the existing "minimum access" funding of local legal services programs -- an approach that translates to the equivalent of two attorneys for 10,000 poor people in 1975 dollar terms -- can reach only a fraction of the persons with urgent legal problems who are eligible for help under the Legal Services Corporation Act. Most of the demonstration projects operated in places where other legal services programs funded at the minimum access level (or above) existed. Yet most of the demonstration projects that were able to become fully operational found themselves with the same problem of excess demand faced by regular legal services programs.

7. Standards for Civil Legal Practice. When the Corporation undertook this study, there were no agreed-upon standards for measuring performance in the legal profession. It was necessary to develop specific performance criteria, and methods for measuring legal work against those criteria. The Corporation did so with the participation of persons from the organized bar, existing legal services programs, private practitioners, legal scholars, client representatives and social scientists. Many factors might have been used to assess performance, but the study was necessarily limited to a few. The four criteria selected -- cost, quality, client satisfaction and impact -- were chosen to present a balanced picture of program performance. The study did not assign relative value to the four criteria.

Experience with the application of these criteria has benefits beyond the study itself, and will be useful in the continuing effort to develop standards for civil legal practice, for legal services programs serving the poor and for the profession as a whole.

RECOMMENDATIONS TO THE CONGRESS AND THE PRESIDENT

The Corporation has a statutory obligation to submit to the Congress and the President recommendations from this study concerning improvements, changes or alternative methods for the economical and effective delivery of services.

There are two sets of recommendations on which the Congress or the President (in terms of recommendations to Congress) could act. The first would involve statutory change. The second would involve appropriation of funds.

On the matter of statutory change, nothing in the study results supports any change in the Legal Services Corporation Act. Congress should retain the statutory authority that now provides the flexibility to develop particular systems for delivering legal assistance that are relevant to local circumstances. The Act now permits utilization of any of the models included in the study, and indeed several are being funded now, outside the Delivery Systems Study context. Nothing in the **study or in the broader legal services experience would support any** change mandating a particular delivery approach.

Several provisions of the Legal Services Corporation Act did cause problems for some demonstration projects, particularly those related to the composition of governing bodies, referral of fee-generating cases, priority setting and financial audits. These provisions are essential, however, to preserve the integrity of the legal services program-and its accountability to clients and the Congress. Eventually, most of the demonstration projects were able to meet the requirements, indicating that they are not insurmountable barriers to participation of attorneys in private practice. The Corporation does not recommend that the statutory requirements be changed or waived.

On the matter of appropriations, the Corporation makes no recommendations at this time, although it is clear that increased funding will be necessary to support optimal delivery systems involving staff attorneys and attorneys in private practice who are capable of responding more fully to client needs. Our budget request for 1981 has already been submitted to Congress, and the Corporation does not propose that it be increased to accommodate the study results. If adequate funds are appropriated, money will be available to implement Corporation policy outlined below. The Corporation's requests for appropriations for fiscal year 1982 and beyond will take into consideration the need for additional funds to permit further utilization of the study results.

CORPORATION POLICY

The Corporation is committed to a policy of encouraging the continued evolution of creative delivery approaches that utilize both staff attorneys and attorneys in private practice, in ways tailored to local circumstances. As the Corporation completes its minimum access goal in 1980, consideration is being given to proposed delivery approaches that rely principally on attorneys in private practice. Given the evidence from the study on the positive effect of staff, particularly on the impact measure and in pro bono projects, the Corporation will strongly encourage a staff attorney component in any program involving attorneys in private practice.

Nothing in the study suggests the need for any wholesale change in the delivery mechanisms that are now in place, which vary substantially from one community to another. We do not intend to replace effective programs now in operation. However, as we move beyond the completion of minimum access, we will undertake the following activities, beginning in 1980, to maximize utilization of the Delivery Systems Study:

- (1) The Corporation will continue funding a number of the most successful demonstration projects at a cost in 1980 of \$1 million.
- (2) The integrated analysis from the Delivery Systems Study will be completed and made available to legal services programs and to the legal community as a whole, to assist in local program improvement, planning, design and evaluation.
- (3) The Corporation will undertake a coordinated effort to provide direct assistance and support to legal services programs and communities to help develop optimal delivery systems. Persons with direct experience in the demonstration project operations will be asked to participate in this effort, which will include at a minimum:
 - technical assistance to communities interested in reexamining delivery approaches
 - training for local program managers on delivery systems design
 - specific practical materials on delivery systems for local use, suitable for publication in Clearinghouse Review and as separate manuals.
- (4) As the Corporation develops its future budget requests for Congress, full attention will be given to the relative need for additional appropriated funds to support expanded participation of attorneys in private practice in the delivery

of legal **assistance** to the poor. Any strategies for future growth of legal services will include plans to involve private attorneys in ways that **have been shown to** be effective and economical by the Delivery **Systems Study**.

Board of Directors
Legal Services Corporation
June 1980

ACKNOWLEDGEMENTS

The Delivery Systems Study was directed by Leona M. Vogt with assistance from a core staff at the Legal Services Corporation. The study, however, was a cooperative effort involving hundreds of persons from the legal services and client community, the legal and social science research communities, the organized bar, individual attorneys in private practice, and the Legal Services Corporation Board of Directors and staff.

Because the study spanned six years -- beginning in 1974 when the Office of Economic Opportunity began planning the study to the present -- it is impossible to acknowledge all of the individuals who contributed to the study. However, there are a number of persons who deserve special recognition for their contributions.

The greatest debt is owed to the clients, programs directors, data coordinators, and other staff of the 98 programs in this study. They met considerable demands placed on them over the four-year data collection period -- in terms of both time and energy. The clients shared their views on their legal services experience, and the staff members responded to numerous data requests while continuing to provide needed services to their clients.

The Delivery Systems Study advisory panel and small working groups, composed of lawyers, clients, and social scientists, provided invaluable assistance primarily in helping to apply social science research methodology to the realities of legal services practice.

In keeping with the congressional requirement that the study be independent, the Corporation involved a number of research organizations to assist in the study design, data collection, analysis, and report preparation. The Urban Institute of Washington, D.C., had primary responsibility for the initial study design, development of the performance measures, technical review of the work of other contractors, and the integrated analysis. Many individuals from the Urban Institute contributed to the study; however, special thanks go to Robert Sadacca, Richard Schmidt and Sharon Studer whose critical reviews and technical contributions were particularly valuable.

Performance Development Institute of Washington, D.C., provided critical technical assistance and analysis in preparing this policy report. In particular, John Scanlon and Tom White helped the Corporation to organize an enormous amount of research data into a policy framework, just one of many contributions they have made over several years of involvement in the study.

Other research contractors assisted in the data collection and analysis portions of the study. Westat, Inc. of Rockville, Maryland, collected and analyzed client satisfaction and cost data, and provided technical assistance to the projects on the statistical data system. Steve Dietz, Jack Powers, Ron Sepanik and Mary Beth Merrin shared responsibility for the client satisfaction measure; Jeff Roth directed the cost analysis and Barry Kelly managed the technical assistance efforts for the projects.

Contract Research Corporation of Belmont, Massachusetts, led by Jeff Juster, managed the data collection for the quality measure. Human Resources Corporation of San Francisco, directed by Louise Stutsman and assisted by Jim Robins, managed the data collection for the institutional and impact analyses. Group Operations, Inc., of Washington, D.C., was responsible for the computer processing of the Statistical Reporting System. Barry Murphy managed the system and Alan Unger produced a statistical analysis of the data base.

Special thanks go to the 51 attorneys in private practice, judges, and law professors who travelled around the United States as peer reviewers for the quality measure and who collected the data and judged program work for the impact analysis.

Special recognition is due to Bernie Veney, Executive Director of the National Client Council, and De Miller, former chairman of the Project Advisory Group, for their critical review and assistance at various points in the study. Bruce Morrison, also of the Project Advisory Group, made a major contribution by providing thorough, useful, and constructive criticism of the study.

Special appreciation goes to Richard Schwartz of Syracuse University College of Law, who performed an oversight role for the American Bar Association. Professor Schwartz conducted his analysis in a highly professional manner with sensitivity to the time pressures of the legal services programs, the research contractors, and the Legal Services Corporation staff. He also demonstrated a keen awareness of the limitations of applying social science research methodology to human conditions.

Within the American Bar Association, the Standing Committee on Legal Aid and Indigent Defendants showed special concern that the study be conducted fairly and properly. Other groups within the ABA, such as the General Practice Section, also displayed continuing interest in the study.

Dan Bradley provided leadership and special encouragement in the last year of the study. Clint Lyons provided direction on key policy aspects of the study and Judy Riggs worked on the translation of study findings to policy conclusions. Other members of the Legal Services Corporation senior staff spent many hours reviewing drafts of the report: Tim Ayers, Mary Bourdette, Alan Houseman, Marjorie McDiarmid, Theron O'Connor, John Tull and Gerry Singsen. Their critical comments and suggestions greatly enhanced the quality of the report.

Much of the credit for the successful completion of the study is due to the efforts of the Corporation staff and consultants assigned to the study since 1976. Ken Smith managed the data collection and analysis contracts and assisted in the preparation of the report. Michael Glomb directed the staff operations related to the monitoring of the demonstration projects and also assisted in the preparation of the report. Catherine Farrell, Renee Hausmann, Winona Read, Linda Schmidt and John Sullivan also made significant contributions to this report. Marsha Williams provided the necessary administrative support for the production of the report. Carolyn Perry, Mary Sarley, and Annie Williams labored over many drafts of this report; their efforts are deeply appreciated. Other present and former staff and consultants who contributed their talents and energies over the past four years are: Doris Anderson, Suzanne Baron, Evelyn Ezum, Albert Herter, Marcia Litman, Gloria McKinney, Reid Melton, Linda Perle, Paula Rhodes, Catherine Thomas, and Carolyn Worrell.

This listing would not be complete without acknowledging contributions of former members of the Legal Services Corporation staff. Tom Ehrlich, the first president of the Corporation, insisted on a fair, thorough study, and provided continuous support and guidance throughout his tenure. Charles Jones and Steve Walters provided crucial guidance to and support for the study through the difficult period of initial implementation in the field. Harriett Ellis helped coordinate ongoing efforts with the private bar, and Clint Bamberger contributed his special knowledge of the legal services program, going back to its inception in the Office of Economic Opportunity. A special debt of gratitude is owed to Alf Corbett whose ideas, advice, and encouragement helped the study through its early design.

Finally, we must thank the past and present board members who provided direction and oversight throughout the course of the study.

To these people we give our special thanks.

PREFACE

The Legal Services Corporation is a private, non-profit organization created and funded by Congress to provide financial support for legal assistance in civil matters to persons unable to afford such assistance. It was established by the Legal Services Corporation Act of 1974 and began operations in July 1975, with a mandate "to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances" and "to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel" (Sec. 1001 (1) (2)].

The federal effort to provide public funds for legal services began in the mid-1960s when the Office of Legal Services was established in the Office of Economic Opportunity (later the Community Services Administration). With the transition from government to independent status, completed in October 1975, the Corporation assumed responsibility for those programs administered by the Community Services Administration.

The Corporation is responsible **for ensuring that its grantees** provide services efficiently and effectively, and that they comply with the Legal Services Corporation Act and the **rules and regulations issued** by the Corporation. The Corporation administers **its grants** through regional headquarters in nine areas of the country. **Each program is** governed by its own board of directors, **composed of representatives of** both the legal and client **communities**. **Each program has broad** authority to set its own priorities **and to determine** how it will conduct its operations within the general limitations of the Corporation Act, regulations and policies.

The Legal Services Corporation Act requires the Corporation to make "a comprehensive, independent study of the existing **staff-attorney program** ... and, through the **use of appropriate demonstration** projects, of alternative **and supplemental methods of** delivery of legal services to eligible **clients**" [Sec. 1007(g)]. The legislation identifies judicare, vouchers, prepaid legal **insurance, and contracts** with law firms as delivery methods that should be included in the study. An interim report **was submitted** to the President and Congress in July 1977. The present document **was prepared** in accordance with the statutory requirement **and presents** policy conclusions **and recommendations** to the President and Congress.

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I. OVERVIEW OF DELIVERY SYSTEMS STUDY

A. INTRODUCTION

This report presents major policy conclusions of a four-year study of systems for the delivery of publicly funded civil legal assistance to the poor. The study was undertaken by the Legal Services Corporation in response to a specific statutory requirement of the Legal Services Corporation Act of 1974. Section 1007 (g) stated:

The Corporation shall provide for comprehensive, independent study of the existing staff attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.¹

The study was designed to achieve two different but compatible goals. One goal focuses on major policy issues, enabling the Corporation to recommend to Congress and the President improvements, changes or alternative methods for the economical and effective delivery of services. This report addresses this goal. The other goal focuses on programmatic issues, to help the Corporation design and implement delivery systems best suited to local circumstances by identifying

1. On July 14, 1977, the Corporation submitted to the Congress and the President an interim report on the Delivery Systems Study. Congressional oversight committees agreed to allow additional time to collect and analyze the data and to submit the final report.

factors that affect performance, such as organizational and community characteristics. That goal is being addressed by a more detailed analysis of the data collected in the study, which will be completed later in 1980.

It is important to understand the developmental context within which this study was ciandated and conducted. Questions about appropriate and effective models for delivery of publicly supported civil legal assistance have been part of the policy debate surrounding the legal services program since its inception in the Office of Economic Opportunity in 1965. From the beginning, programs were designed locally to deal with particular circumstances in the commun cities to be served. For the most part, local boards organized programs around full-time staffs or salaried attorneys, though several judicare projects were developed and funded. Until -very .recentl-yr--theoverall -legal -services program was relatively small and was concentrated in major urban areas. Relatively few resources were allocated for service to the millions of poor who reside in small towns and rural areas. Political controversy in the early 1970s precluded further expansion of legal services until Congress passed the Legal Services Corporation Act in 1974, providing a politically independent administrative base for the program and outlining the scope of representation to be provided.

The statute did not mandate any particular delivery model but authorized the use of a variety of delivery approaches and individual program development according to local circumstances. Acknowledging the national discussion of alternative and supplementary models, Congress did require an examination of the staff attorney program and, through the use of appropriate demonstration projects, a study of the efficiency

and effectiveness of alternative and supplemental methods of delivering legal services to eligible clients.

This study was not the only step Congress took to assure effective delivery of legal services to the poor. In the 1977 amendments to the Legal Services Corporation Act, Congress required the Corporation to study delivery of legal services to veterans, migrants, Native Americans, people with limited English-speaking ability and individuals in sparsely populated areas. The Corporation reported on services to these groups in 1979.¹ The Corporation also undertook an additional study on the delivery of legal services to the elderly and handicapped. That report will be completed shortly.

By 1975, the locally designed nature of the legal services program had led to a variety of office structures and program operations. Among existing urban programs there were substantial operational differences on paralegal utilization, degree of attorney specialization, office size, management approaches, service delivery and service outside traditional office settings. There were similar differences among existing rural programs, as well as differences in the extent of circuit-riding and office structure.

Today's legal services program differs significantly from the one that existed in the mid-70s when this study began. The past five years have been a period of dynamic growth. Between 1975 and 1980 the program's annual budget grew from under \$100 million to \$300 million.

1. Special Legal Problems and Problems of Access to Legal Services of Veterans, Migrant and Seasonal Farm Workers, Native Americans, People with Limited English-Speaking Ability, and individuals in Sparsely Populated Areas, legal Services Corporation, 1979.

What has emerged is a delivery system more varied and complex than the one that existed in 1975. A variety of delivery structures and a number of new approaches have evolved to fit varied local settings, to assure adequate representation of special groups and to address several new and complicated delivery problems. The Corporation is analyzing these problems, learning more about the growing complexity of its delivery system. The Quality Improvement Project funded several local projects to test **new approaches** to client involvement, **preventive law**, professional development, private bar involvement, service delivery to the handicapped, specialized units, rural delivery, paralegal development, management and technological innovation. Additional work is underway to examine successful approaches to delivery in sparsely populated **areas**, and to explore their replicability in varied rural settings. Adaptation of advanced technology to local **program operations** is beginning to have a significant effect on legal services practice.

All legal services **programs** operate in local situations where demand for assistance on urgent legal problems far outweighs the capacity to respond. This reality compels both the Corporation and local programs to seek private attorneys willing to participate in legal services practice. The result, undoubtedly enhanced by the interest generated by the Delivery Systems Study, is significant utilization of private attorneys, both on a paid and on a volunteer basis -- through program contracts with individual attorneys, more formal judicare efforts, and a variety of **pro bono arrangements**.

The evolving character of legal services, the scope of the statutory mandate, and limited funds precluded the study from being a

controlled experiment. Instead, the study tested various private bar models as demonstrations, so as to allow the same type of local variation that exists in regular field programs. To provide a basis for comparison of the demonstration projects, the study examined a random sample of 60 staff attorney programs, 12 in the same depth of analysis as the 38 demonstration projects.

Most of the resources devoted to the study paid for the direct delivery of legal services to poor people through the demonstration projects. Six models utilizing private attorneys were tested: judicare, contract, prepaid legal insurance, voucher, legal clinic, and pro bono. In addition, three variations of judicare were tested. The projects were funded for two or three years, either as supplements to other Corporation-funded programs (13 projects) or as independent programs (25 projects). All but seven projects provided service in geographic areas already theoretically covered by a legal services program.¹

In keeping with the statutory requirement for an independent study of the staff attorney program, all data collection and analysis were conducted by independent research contractors. This report was written by the staff of the Legal Services Corporation, on the basis of data collected and analyzed by the independent contractors.

1. The Corporation funds its regular field programs to provide service in specific geographic areas. Although all eligible clients in an area are theoretically covered by the program serving the area, the level of funding is so low that only a portion of those eligible and needing assistance actually can be served. With the completion of expansion in 1980, all areas will have this theoretical coverage.

B. SUMMARY OF MAJOR STUDY CONCLUSIONS
AND OBSERVATIONS

The six major demonstration models -- judicare, contract with law firms, prepaid legal insurance, pro bono, legal clinic and voucher -- all represent different mechanisms for involving the private bar in the delivery of legal services to the poor. Three variations of the judicare model also were tested -- **pure** judicare, judicare with a staff attorney **component**, and judicare **as a supplement to a staff** attorney program. Therefore, a total of eight private attorney models were tested.

To support the Corporation's **recommendations** to Congress and the President, a policy analysis was carried out as part of the Delivery Systems Study. The broad criteria **used to assess** the viability of private attorney **models as** alternatives **and supplements** to the staff attorney **program were** feasibility and performance. The feasibility criteria **were**: the capability of the model **to operate** in compliance with the Legal Services Corporation Act and regulations, and its ability **to address** the legal **services needs** of eligible clients and to gain the support of the local legal community. The performance criteria determined whether a private attorney **model met the standard** set by the staff attorney model on cost, quality of services, client satisfaction and impact on the poverty community.) If a model met the feasibility **and performance** criteria, then it would be considered a viable delivery model to be used by Legal Services Corporation **grantees**.

1. **For purposes** of this study, the Corporation developed a **measure of "impact" defined as: "... achievement, or expected achievement, of relatively permanent improvement or avoidance of relatively permanent deterioration in the legal rights or basic living conditions of significant segments of the eligible population."**

The policy analysis found that three of the private attorney models tested -- judicare with a staff attorney component, contracts with law firms as supplements to staff attorney programs, and organized pro bono -- are viable delivery models for use or consideration by Corporation grantees. The models demonstrated their feasibility by operating within the Corporation Act and regulations, providing legal services needed by the poor and gaining the support of the local legal community. They also met the standards set by the staff attorney program on cost, quality of services and impact on the poverty community.¹

The judicare supplement to a staff attorney program failed the impact standard, but could be a viable delivery model in situations where the parent staff attorney organization would do the necessary impact work. Two models that were fully tested in the study did- not demonstrate that they were viable delivery systems: pure judicare and prepaid legal insurance. The two remaining models -- voucher and legal clinic -- were not fully tested for different reasons. Neither model met the feasibility criteria. Because the voucher model operated only briefly, it could not be tested on the performance criteria. The performance of the legal clinics was measured; however, because only two legal clinics were funded, and they operated in very different ways, no conclusions were drawn about the clinic model.

1. CONCLUSIONS ON MDFL FEASIBILITY

The following is a summary of major conclusions about the feasibility of the private attorney models.

1. No conclusions were drawn on model performance for the client satisfaction criterion, due to the low response rate in the client satisfaction survey.

- Five of the private attorney models demonstrated their feasibility. They **were**: pure judicare, judicare with staff attorney component, judicare supplement to a staff attorney **program**, contract with law firm and pro bono. Three models -- prepaid, clinic and voucher -- did not demonstrate that they **were** feasible delivery systems for poor people.
- Two private attorney models -- legal clinic and voucher -- were not implemented as specified in the study. The prepaid model had only limited success in implementing the model specifications.
- Five of the private attorney models **were able** to comply with all of the Corporation's **statutory and regulatory** requirements. They **were**: pure judicare, judicare **with a staff** attorney component, judicare **supplement to a staff** attorney **program**, contract, and pro bono.
- All of the private attorney models **demonstrated** their ability to provide **needed** legal **services to poor people**. The demonstration projects funded as **general services systems had case** distribution similar to the staff **attorney** program. The demonstration projects **that were designed to provide more** limited types **of services** (e.g., **services** only to the elderly, **concentration** on family law matters) did so.
- **Each demonstration project -- regardless** of the model -- **received** either direct or tacit **support from** the local bar **association and from** the staff attorney **programs serving the same community**.

2. CONCLUSIONS ON MODEL PERFORMANCE

- Three of the private **attorney models met the standard** performance levels set by the staff attorney program on the cost, quality and impact criteria. The models **were**: judicare with **a staff component, contract with law firm, and pro bono**.
- Three private attorney **models did not meet the performance standard**: pure judicare, judicare **supplement** to staff attorney **program** and prepaid legal insurance. **Two models** -- voucher and clinic -- were not tested on **the performance** criteria; voucher because it failed the feasibility criteria and clinic because the limited number **of projects** funded precluded **generalizing** to model conclusions.
- No private attorney model tested in the study failed to meet **the performance** standard on cost set by the staff attorney **program**. The demonstration projects that paid private attorneys "usual and customary **fees**" **did have costs** notably higher

than other study projects. Most of the pro bono projects fell in the low **cost range**.

- **No conclusions were drawn on the client satisfaction measure because of the low response rate of the clients to the client satisfaction survey.**
- No private attorney **model tested** failed the **performance standard** on quality set by the staff attorney **program**. No statistically significant differences **were found between any** of the private attorney **models and** the staff attorney **program on average** project quality **scores on** the proportion of quality **scores that** fell below "**satisfactory**."
- Three private **attorney** delivery **models produced impact results** that **met the standard** set by the **staff attorney model**: judicare with a staff **component, contract and pro bono**. The **pure judicare, judicare supplement to a staff attorney program, and prepaid models** did not **meet the impact standard**, but for different **reasons**. The **pure judicare and the judicare supplement to the staff attorney program did** not reflect the **same consistency in doing impact work as the staff attorney model**, because they had fewer projects doing impact work and the project **impact scores were much lower than the staff attorney program**. Only one of the four judicare supplements **did any impact work**; therefore, there is little **evidence that the model can achieve substantial impact results**.¹ **No impact work was attempted** by the six prepaid **models in** the study.

3. OBSERVATIONS FROM THE STUDY To DATE

In addition to the above conclusions on the viability of the private **bar models**, the following observations and preliminary findings may be helpful in determining whether to use a private bar model in a particular delivery **setting**.

- Most of the demonstration projects that paid attorneys' fees (i.e., excluding pro bono) used fee schedules that were below the usual and customary rates to maintain reasonable costs. The use of reduced fees did not prevent the demonstration projects from achieving adequate panel sizes to provide their planned level of service.

1. Although the judicare supplement model failed the impact measure, it could be a viable delivery model in situations where the parent staff attorney organization would do the necessary impact work.

- More than 2,500 attorneys in private practice **agreed to serve** on the panels in the 38 demonstration projects. With one exception, no projects **encountered** difficulty in finding enough **private attorneys to operate** their **programs**.
- Several demonstration projects **were designed** to provide clients **the freedom** to choose their **own attorneys**, an option that is available only to a limited **extent in a staff** attorney **program**. **Project experience** indicated, **however, that where** **freedom** of choice was available **it was not often** utilized. The **voucher model was designed** specifically to **test the** effects of client choice of delivery **systems and** individual attorneys in private practice. **In practice, however, clients in the one** **voucher project funded rarely had a preference, and the project** **began functioning as a judicare model with a mechanism to refer** clients to attorneys in private practice. Client choice was **also a method of case assignment** in the judicare **model and in** **some contracts, but these projects found as well that most** clients **did not exercise their option to choose** an attorney.
- All pro bono **demonstration projects operated as complements** to the local **staff attorney programs** -- even though they **were funded as alternative models**.
- Pro bond staff served several functions critical to the success of pro bono projects: on-going recruitment and retention of panel attorneys, training, co-counsel and back-up on cases and case monitoring. The pro bono projects spent considerable effort on techniques for monitoring the status and resolution of panel attorneys' cases -- with some success.
- Even though the **Corporation does not draw conclusions about** model differences on the client **satisfaction measure, because** of the low **response rates in the client survey**, it is interesting to note that 75 percent of the former clients interviewed said they **were either very satisfied or mostly satisfied** with the services they received.
- The staff of private attorney projects played a major role in the impact results achieved by those projects. Sixty-nine percent of the average pro bono project scores were attributable to **attorneys on the project staff** -- 36 percent was achieved exclusively by staff and an additional 33 percent resulted from work of staff attorneys in conjunction with private attorneys. Forty-four percent of the average project impact work was attributable to project staff -- 35 percent to staff alone and 9 percent to a combination of private attorneys and staff. The number of cases was too small in the pure judicare and judicare supplement projects to allow a meaningful breakdown by type of attorney. The only private bar model in which most of the impact results were attributable to attorneys in private practice was the contract model. No prepaid project did any impact work.

- Most of the demonstration projects operated in communities also served by other legal services programs. Yet most of the demonstration projects that were able to become fully operational found themselves with the same problem of excess demand faced by regular legal services programs, and either had to close intake or reduce their level of new clients to stay within their budgets.

II. DESIGN OF THE DELIVERY SYSTEMS STUDY

This chapter describes **some** of the major **aspects of** the Delivery Systems Study design and operations, specifically:

- Study objectives
- Description of policy analysis
- Models tested
- Study projects
- **Performance measures used**
- **Roles and** responsibilities
- **Products**

A. STUDY OBJECTIVES

The Delivery Systems Study **was designed** to meet two goals. One goal addresses national policy issues. The other focuses on programmatic **issues** of selection, design and implementation.

1. POLICY OBJECTIVE

The policy **objective was to provide information that would-enable the Corporation to make recommendations to Congress and the President regarding improvements, changes or alternative methods for the economical and effective delivery of services.**

The policy **analysis in this report addresses the following question: Are there viable delivery models involving attorneys in private practice that can be used by Corporation grantees?**

The traditional **staff attorney program was the standard of comparison, as implied in the statute requiring this study. The staff attorney model has been in use since the beginning of the legal aid movement in the late 1800s. The federally supported legal services program, which began in the mid-1960s, was built on the staff attorney model, although other delivery methods have been used to a limited extent from the beginning and have expanded as the program has grown in the past five years.**

The policy **analysis examined the feasibility of the private attorney models and legal work performance. These criteria are described in Section B of this chapter. The results of the policy analysis are presented in Chapters III and IV.**

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2. RESEARCH OBJECTIVE

The research objective was to provide information to support decisions on (1) which models are appropriate for a specific community, given local conditions and needs, and (2) how to design and implement a project to assure economical and effective delivery of legal services. These are decisions that can be made by Corporation grantees as long as they comply with Corporation regulations and standards.

The research analysis addresses the following questions: (1) What factors, such as program design, operations and environment, have a strong effect on performance? (2) What levels of performance can be expected from various models?

One byproduct of the study will be the assessment of the performance measurement systems to determine whether they are considered valid measures of program performance by Corporation managers and grantees.

B. DESCRIPTION OF THE POLICY ANALYSIS

The policy analysis **was designed to answer two general questions:**

- Are the private attorney models feasible?
Can the model be put into operation, operate in compliance with the Legal Services Corporation Act and regulations, gain support of the legal community and meet the legal needs of eligible clients?
- Can the private attorney models meet the performance standards set by the staff attorney program?
When compared to the staff attorney **model** on cost, quality of services, client satisfaction **and impact**, did any of the private attorney **models perform** well enough to be considered as a delivery model for use by Legal Services Corporation **grantees?**

The traditional staff attorney **program** is the implied or explicit **standard in both types of criteria.**

Before the criteria used in this analysis are described, it is important to clarify the types of decisions this analysis was designed to support.

1. TYPES OF DECISIONS

The study **was designed to answer this essential question:** Should the **existing statutory approach be maintained to allow flexibility in local program planning** or should **one or more delivery models be mandated at the national level?** **Mandating would require conclusive evidence that one or more models performed better than all others on all performance criteria in clearly defined situations.** The criteria used in the study were feasibility (ability **to operate a program**) and performance in terms of cost, quality, client **satisfaction and impact.**

The data and analysis indicate that no statutory change is required, because no single delivery model showed clear superiority to the others tested in the study.

2. FEASIBILITY CRITERIA

Four types of feasibility criteria **were used** in the policy analysis. A model was judged **feasible** if it met the following criteria:

- (1) The model described can be put into operation.
 - An adequate number of organizations express interest in operating the model.
 - Reasonable plans can be developed by grantees to implement the model.
 - Model specifications can be followed by the grantees.
- (2) The model can be operated in compliance with the Legal Services Corporation Act and regulations.
 - At least some projects within a model complied with the Act and regulations.
- (3) The model can address the legal services needs of the client population.
 - Projects within a model are able to provide the same range of legal services as the staff program.
- (4) The model can gain support of the legal community.
 - Projects within a model are supported by the local legal community.

For the first, second and fourth criteria, the standard was set by the Act **and the Corporation**. The standard for the third criterion, meeting the **legal needs of the poor**, is the distribution of types of legal work handled by staff **attorney programs**. If the **case type** distribution of a private **attorney model** **were** very different from that of a

staff attorney program, it would be questionable whether it was meeting the needs of the poor. If the difference were major and could not be explained and justified (e.g., a supplement model where **most** projects specializing in family law problems would, by design, have a narrow range of services), the model would not be considered feasible.

3. PERFORMANCE CRITERIA

The four performance criteria used to determine whether a private attorney delivery model was considered viable for use by Legal Services Corporation grantees were:

(a) **Cost**

A private attorney model met the standard if most of the projects tested had costs in the **same range** as or lower than those of the staff attorney program.

(b) **Client Satisfaction**

A private attorney **model met the standard** if most of the projects **tested had client satisfaction scores in the same range as or above those of the staff attorney program.**

(c) **Quality**

A private attorney **model met the standard** if most of the projects **tested had quality ratings in the same range as or higher than those of the staff attorney program.**

(d) **Impact**

A private attorney model **met the standard** if most of the projects tested had **impact scores** in the **same range as or higher than the staff attorney program.**

Figure 1 illustrates how the criteria were applied. The range of scores and the individual average scores for each project are indicated with circles on a horizontal line. The first line shows hypothetical results of the staff attorney model. If all or most of the projects in a private attorney model fall within the same range as the staff attorney projects, the model would meet the standard. Hypothetical Models A and B do not meet the performance criteria. All the Model A projects fall below the range of the staff program standard. There is some overlap of projects in Model B at the low end of the standard, but since the results show that the best Model B projects performed at the lowest level of the standard, there is no evidence that a better system would result from replacing any staff attorney program with a Model B project.

Hypothetical Models P and E meet the standard, and Model C could also be viable. Although most of Model C's projects (four out of six) are below the standard, two perform at the high end of the standard. Thus there is some evidence that the model can perform well enough to be considered for use by Legal Services Corporation grantees. If a comparison of the low- and high-performing projects in Model C indicates that the low performance is "correctable" and not inherent in the model, then Model C is viable. Hypothetical Model F exceeds the standard. If such a result actually occurred, the Corporation might change the standard of performance for the legal services program and/or mandate a new delivery model to be used by all Corporation grantees.

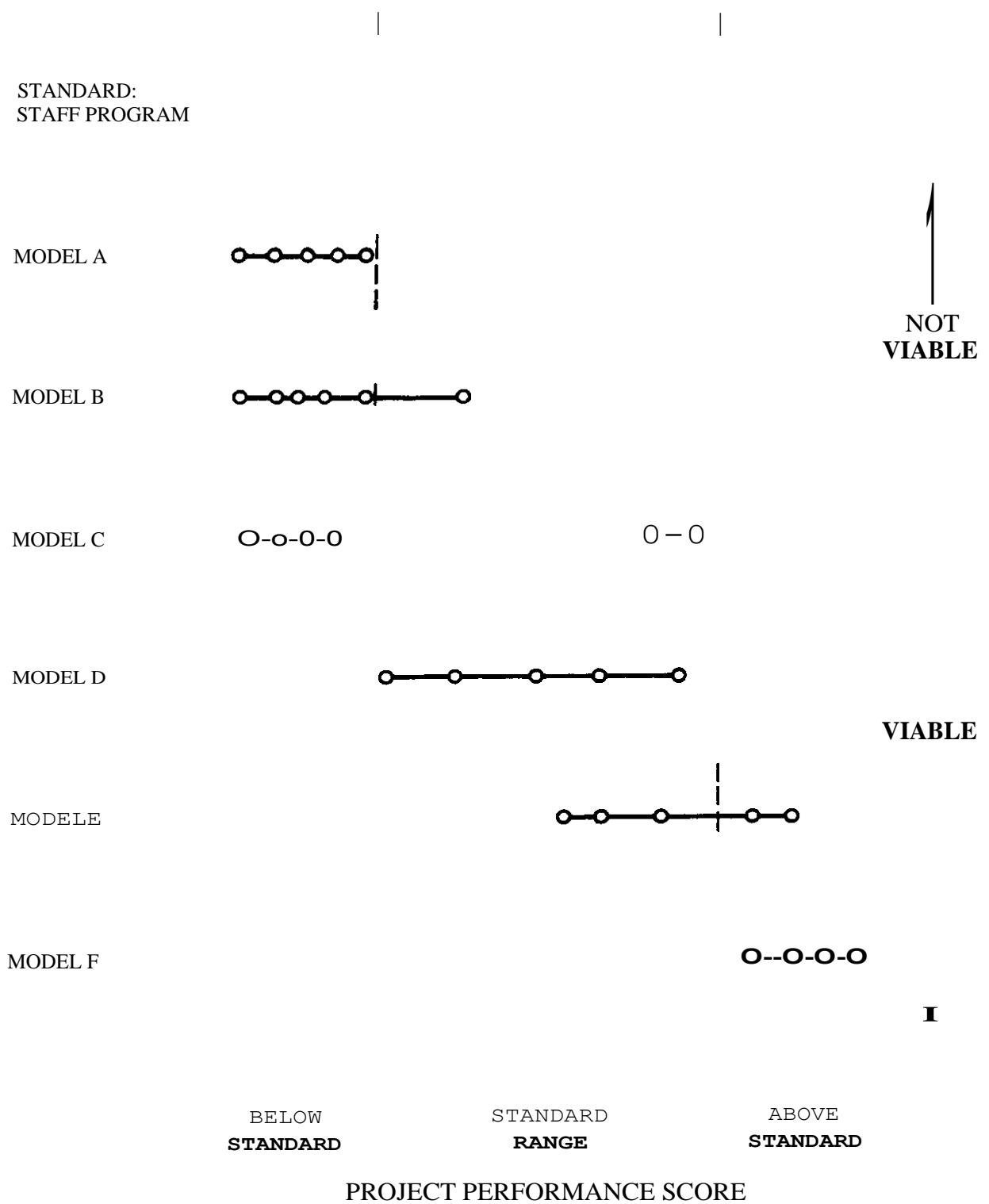


FIGURE 1: ILLUSTRATION OF HYPOTHETICAL PERFORMANCE CRITERION

C. MODELS TESTED

Congress specified four models to be tested by the Corporation, either as alternatives or as supplements to the staff attorney model. These models were judicare, voucher, prepaid legal insurance, and contracts with law firms. When the study began, only the staff attorney and judicare models were fully developed and operational. Therefore, part of the study's task was to develop operational definitions of each of the models.

There was some general agreement in the legal community on the operational descriptions of "judicare" and "staff attorney program." It was generally recognized that the 200-plus existing staff attorney programs varied considerably in their operation and performance. There was also a great deal of experiential data about each model, spanning almost 10 years for judicare programs and over 100 years for the staff attorney program. Even though adequate comparative data did not exist, there was some evidence that both models were feasible and practical.

No similar information or experience existed regarding the ability of the prepaid, contract and voucher models to engage in organized delivery of services to the poor, nor was there agreement within the legal profession on the essential elements of each model. Thus, the first task was the development of model specifications. The Corporation chose to describe the essentials of each model and allow for variation in response to local needs and conditions, rather than to set forth rigid operational specifications to be followed for each model.

The Corporation chose this course for **several reasons:**

- Considerable variation already existed in the staff attorney and judicare models, and it was known that **little agreement could be reached on a "master" model** for either.
- Local variation **was consistent** with the Corporation's **overall funding approach**, which places **design and management functions** in the **hands** of locally governed programs.
- Little **was known about the operational characteristics of most models**, which precluded specifying the models in too much detail and, therefore, testing the "wrong" model.

The validity of the study **design depended** heavily on the validity of the model specifications. It was **necessary** for the Corporation to set forth **certain** basic characteristics **of each model**, specific enough **to set each apart from** the other, yet flexible **enough to** allow local **adaptation**. In May 1976, **the Corporation management** initiated a three-step **process to design** the delivery **models**.

First, **concept papers** were solicited **from both** the legal services **community and the private** bar to help **determine the extent of agreement** regarding model characteristics and methods of operation.

Second, an **advisory panel was created to review concept papers and the model specifications based on those papers**. In this way, **agreement on model specifications was achieved** by a knowledgeable and representative group within the legal **profession and client communities**.

Third, proposals **based upon these model specifications** were requested.

The Corporation's design process identified two additional models not specified **in Congress' mandate**: **organized pro bono programs** and legal clinics. Since the Act did **not preclude** the testing of

additional models, the Corporation's Board of Directors and senior staff decided to add these two models to the study. As a result, seven distinct models, most with a number of variations, were tested. The models were staff attorney, judicare, prepaid, contract, clinic, pro bono and voucher. Each is described below.

1. STAFF ATTORNEY

The essential characteristic of this model is that salaried attorneys and paralegals on the program staff provide most client services. The executive director is ultimately responsible for selecting and managing the staff, and is in turn answerable to a governing board with overall responsibility for the program. The membership of each board -- as with other delivery models -- is at least 60 percent lawyers and at least one-third eligible clients. The board is directly responsible for policymaking in such areas as local program priorities, staff organization and assignment, eligibility, intake and quality control procedures. Staff attorney programs vary widely in size, organizational and staff structure, and priorities. Many staff attorney programs use attorneys in private practice for pro bono services, either as organized components of their operations or on an ad hoc basis.

2. JUDICARE

Judicare systems pay attorneys in private practice on a fee-for-service basis to provide legal services to eligible persons within a specified geographic area. Under this model all attorneys in private practice who practice in the covered geographic area are invited to

participate on the panel. Attorneys may elect on a case-by-case basis whether to take a client, and are paid for services rendered. In some projects, clients may choose freely among panel members; in others, panel attorneys are assigned by rotation. Fees may be set by projects and may include maximum levels. The study tested three submodels, or variations, of the judicare delivery system:

- Pure judicare uses only private attorneys to provide services. A small staff provides only necessary administrative functions.
- Judicare with staff attorney component differs from the "pure" version in the role played by project staff. This model provides staff for some specific types of legal services, advice, information, and perhaps training and technical assistance to the private attorneys who provide most of the client service.
- A judicare supplement to a staff attorney program uses judicare attorneys to extend services to a geographic area not served by the staff attorney program, or to provide types of services not handled by the staff attorney program. The staff attorney program runs the project and refers clients to participating private lawyers when appropriate.

3. PREPAID LEGAL INSURANCE

In a prepaid legal insurance project, a group of eligible individuals or families is enrolled in a prepaid plan with a prescribed schedule of benefits. A set amount is paid into the plan to purchase coverage for the group. The plan may be operated by a consumer group, bar association, law firm, insurance company or other administrative organization. The two variations of the prepaid model tested were:

- Closed panel, in which services are provided by designated attorneys;
- Open panel, in which services are provided by any member of the private bar who agrees to accept enrollees and the fee schedule adopted by the plan.

4. CONTRACTS WITH LAW FIRMS

There were two versions of this model in the study:

- General services contract. A staff attorney program contracts with a law firm or an individual attorney to provide a wide range of services within a given geographic area. In a sense, the firm or attorney is hired to be a "legal services program" for that area, on a fee-for-service or flat-fee basis.
- Specialized services contract. A staff attorney program contracts with an attorney or firm to provide a particular service (e.g., divorces) on a fee-for-service basis.

5. LEGAL CLINIC

The legal clinic is a private law firm that uses its own salaried attorneys, paralegals and support personnel to provide services on a high-volume, low-cost basis to clients eligible for legal services just as it does for its regular clients. Clinics are compensated on a fee-for-service basis.

6. ORGANIZED PRO BONO

The organized pro bono project uses volunteer private attorneys to provide services without fee to eligible clients. Volunteer attorneys may receive payment from the project for certain out-of-pocket expenses associated with representing clients. Project staff provides screening and intake services, recruits volunteer attorneys, provides training and handles administrative tasks. The staff also may provide legal services.

7. VOUCHER

This model provides funds (vouchers) to individual clients or organized client groups, who may then **select private** service providers.

Two variations **were identified to be tested** in the study:

- Individual client choice. A certain **number** of individual clients are given vouchers having a fixed dollar value to **purchase civil legal services from any existing service provider such as a staff attorney program, a legal clinic, or a private law firm.**
- Organized client group. An **established client organization is awarded a grant to be used to purchase legal services for its members**. The client organization determines the kinds of cases on which to **spend grant funds, and the amount to be spent per case, and refers clients to existing service providers, including staff attorney programs and private attorneys or law firms.**

The voucher model was difficult to conceptualize and, eventually, to implement. The Corporation funded one grantee to test the individual client choice variation; however, the grantee did not follow the model specifications, but ran the program like a judicare model. The project was converted to pure judicare in the second year of funding. (See Section B-3 of Chapter III and Appendix A for further discussion of the voucher model.)

D. PROJECTS IN THE STUDY

The Delivery Systems Study involved a total of 98 projects. Sixty existing staff attorney **programs** were randomly selected by the Corporation to participate in the data collection phase of the study. In addition, 38 demonstration projects involving attorneys in private practice **were funded**.

1. STAFF ATTORNEY PROGRAMS

The 60 staff attorney programs included in the study were randomly selected from among 251 staff programs in operation when the study began. Descriptive and cost data were collected on all 60. Twelve were selected for in-depth study; they were chosen to represent large and small programs in urban and rural settings in different parts of the country.¹

2. DEIVNSTRATION PROJECTS (PRIVATE ATTORNEY 217DELS)

The 38 demonstration projects were funded as a result of two solicitations (in August 1976 and in August 1977). Only two of the 38 grantees formed an organization in order to receive study funds. Twenty-six of the grantees had previous experience in providing legal services, and one pro bono project was in operation 10 years before

1. At the time the study was designed, the only data available on existing grantees to use for sampling purposes were location (county served) and size (Legal Services Corporation dollars and total number of staff).

the study began. Thirteen of the sponsoring organizations were existing Legal Services Corporation grantees.¹

The projects funded were selected on the basis of several criteria:

- Understanding and acceptance of the basic model definition
- Demonstrated ability to implement the proposal
- Compatibility with other study needs, such as the need to examine performance of various models in rural areas, in serving certain types of clients, such as the elderly, or in handling certain types of cases.

To create an adequate number of demonstration projects to study all of the models in a variety of settings, it was necessary to allocate relatively small budgets to each demonstration project grantee. The average existing legal services program receives a larger grant and is responsible for services to more clients than any of the demonstration projects. A number of field programs with budgets and client populations comparable to those served by the demonstration projects existed when the study began and still exist today.

Table 1 at the end of this chapter lists the participating demonstration projects and staff attorney programs. Appendix A describes the operations of the private attorney models in detail.

1. See Table 7 on page 51 for experience of demonstration projects.

E. PERFORMANCE MEASURES

No generally accepted measures of performance existed for legal services programs. The Corporation developed such measures with the assistance of private attorneys, legal educators, legal services lawyers, clients, and the Delivery Systems Study Advisory Panel. Four measures were chosen: cost of service, quality of service, client satisfaction with service and impact on the poverty community. Measurement systems were designed to allow comparisons between each private attorney model and the staff attorney model. As part of the analyses, measures also were developed to describe environmental and organizational characteristics of projects.² The actual data collection and analysis was done by independent contractors.

1. COST

Cost of services was measured by collecting statistical data from all 98 programs on types of services provided and expenditures of time and resources. The Statistical Reporting System (SRS), designed primarily for the cost analysis, collected data for over two years on caseloads, attorney and staff time on various activities, and on project budgets and expenditures. Average case costs, costs for certain types

1. Impact refers to legal work that has relatively permanent effects on segments of the eligible population. See Chapter IV for further discussion of the performance criteria.

2. The institutional analysis, designed for the research phase of the study, explored environmental, organizational, and management dimensions of all 98 study projects to identify factors -- in addition to the delivery model -- that could explain differences in project performance. Data on community settings and project operations were collected from interviews and questionnaires involving project staff, panel attorneys, and community leaders.

of cases, and costs of nontraditional forms of legal representation were calculated. Data from on-site interviews and from project records were used to verify the reliability of the SRS data.

2. QUALITY

Teams of two attorneys -- not currently associated with the Legal Services Corporation or its grantees -- used a peer review assessment system to assess the quality of individual case work in 50 programs (38 demonstration projects and 12 staff attorney programs). All attorneys conducting the assessment had prior experience in or exposure to legal services for the poor. They were trained by the contractor responsible for the quality assessment study to use the peer review system designed for that study. The contractor monitored the data collection process to ensure that comparable procedures were being followed. The results were then analyzed to determine whether the attorneys' ratings were reliable and whether any differences in the ratings were related to the delivery model used.

3. CLIENT SATISFACTION

Trained survey researchers interviewed a sample of clients from each of the 50 programs to determine client satisfaction with program services. However, the low response rate limits the conclusions that can be drawn from this survey.

4. IMPACT ON THE POVERTY COMMUNITY

Impact was defined as a project's achieved or expected results in terms of long-lasting improvement, or avoidance of deterioration, in the living conditions of significant segments of the eligible population. Results of a program's services that benefited more than individual clients (impact on the poverty community as a whole) were measured in a three-step process:

- Development of written descriptions of impact work based on site interviews with the person(s) responsible for the impact work. These interviews were conducted by attorneys selected for their experience in such work and trained in the data collection procedures designed for the study.
- Assignment of scores for individual impact work efforts by another group of attorneys selected for their expertise in impact work.
- Normalizing the project scores by adjusting for resources available to the project.

F. ROLES AND RESPONSIBILITIES IN THE STUDY

Major roles in the Delivery **Systems Study** were played by the Corporation **management** and Board, the Corporation staff responsible for the study, a **formal** advisory panel, working **groups**, and **independent** social science contractors.

The Corporation **management** made recommendations to the Corporation's **Board** of Directors **on the design and implementation of the study**. The **Board** reviewed the study **design and operations**, approved the conclusions in this report, and made recommendations to Congress and the President.

Corporation **staff responsible** for the **study operations** performed **four major functions**:

- **Oversight of the demonstration projects to assure their compliance with the Legal Services Corporation Act and regulations, their sound fiscal and administrative management and their adherence to the delivery model**
- **Design of contractor work plans for data collection and analysis of the performance criteria, as well as selection and management of the contractors**
- **Interaction with the study's Advisory Panel**
- **Preparation of the interim and final study reports.**

The **Advisory Panel** -- consisting of representatives of the organized bar, legal services programs and social sciences, as well as clients and legal educators -- provided valuable review and insight throughout the study. In addition to reviewing concept papers and demonstration project proposals, the panel helped develop the measurement systems and reviewed the results of the policy analysis before recommendations were formulated.

Private attorneys, bar organizations, legal educators and legal services attorneys and clients throughout the nation also **were** involved in all phases of the study. Representatives of the demonstration projects and legal services organizations helped the Corporation develop **measurement** systems and data collection procedures.

Independent contractors with social science research experience collected and analyzed data on the **performance measures (cost, quality, client satisfaction, and impact)** and on project **and community** variables that could affect **performance**. The results **were used to** prepare this report, and will be presented in more detail later this year in the research report.

G. DELIVERY SYSTEMS STUDY PRODUCTS

The Delivery Systems Study has three major products: a policy report, research reports, and measurement system guides. Each is discussed below. Figure 2 is a milestone chart of major events that lead to these products.

1. POLICY REPORT

The Congress needs information to set legislative policy and make appropriations for the Corporation. The Corporation needs similar information for its recommendations to the Congress and the President, and to identify future directions for the Corporation. This Policy Report, the first of three products, has been developed -to meet these - needs.

The report focuses on the primary question presented by the Congress: Are there ways to deliver publicly funded legal services through attorneys in private practice that can function within the Corporation's regulatory scheme and provide services as effectively and economically as the staff attorney program?

The report also focuses on an implicit question: Does the mode of delivery affect the cost, quality, client satisfaction or impact of services rendered?

Finally, the report summarizes preliminary findings from the research effort and describes in detail the private attorney models tested in the study.

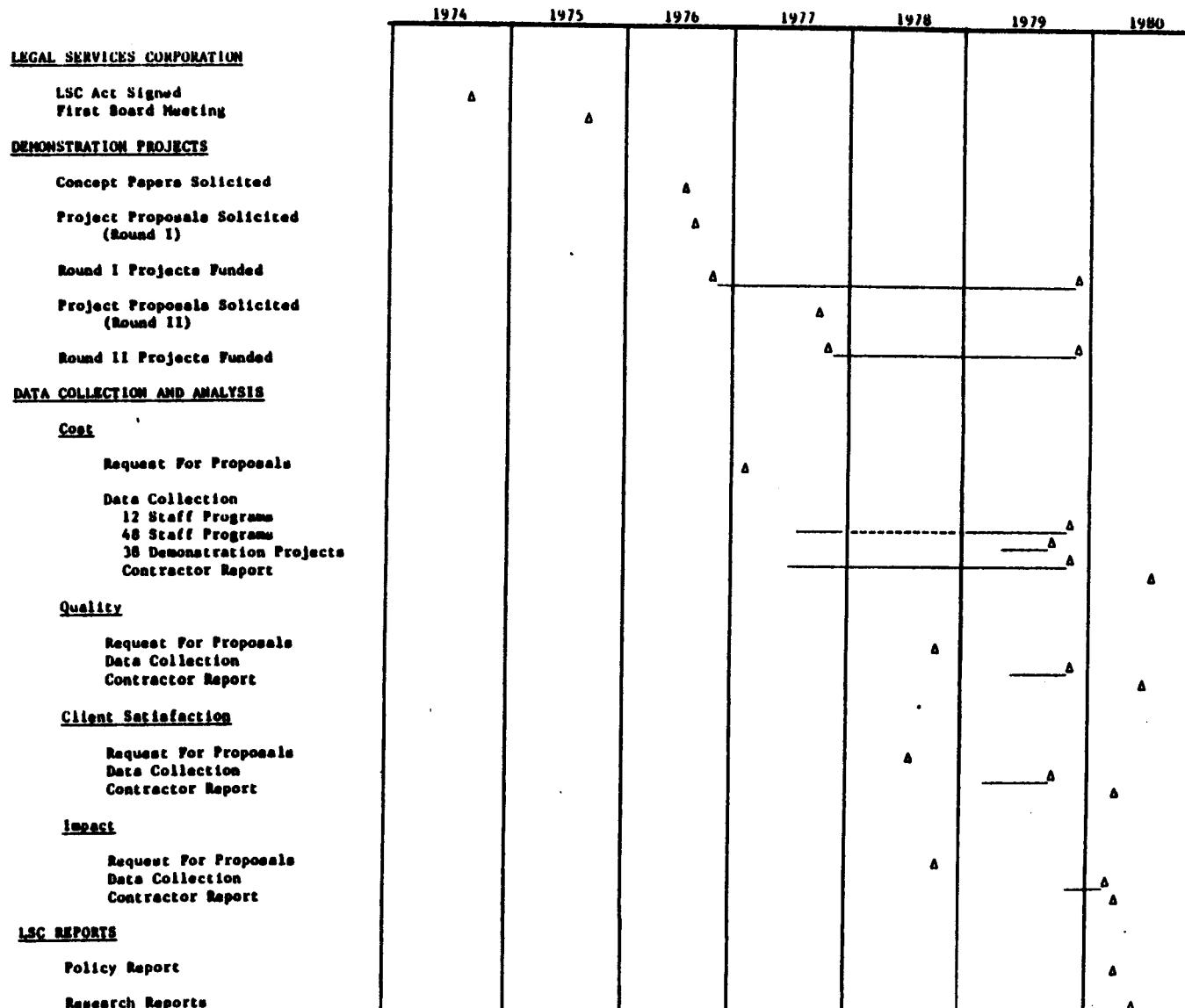


FIGURE 2: MAJOR MILESTONES IN DELIVERY SYSTEMS STUDY

2. RESEARCH REPORT

The Research Report will reflect the fact that the study was the beginning of a learning process, rather than the culmination of a proving process. It will address the narrower questions posed by the Corporation, the legal services community and the private bar. For example, what factors besides delivery model type affect the delivery of legal service? What are the effects of location, type of case, caseload, or attorney experience? How do these factors interact? The environmental, organizational and management dimensions of the projects will be explored as possible reasons for differences in performance. The results of this analysis will provide information on which factors enhance effective delivery of legal services to the poor -- under any model. This information should increase the ability of the Corporation, local programs, the private bar, clients and community leadership to meet the legal needs of the poor effectively and efficiently.

3. MEASUREMENT SYSTEMS AND GUIDES

The third product of the Delivery Systems Study will be a set of systems to measure performance. The systems were developed specifically for the study, but they may be useful throughout the legal services program. These systems will be reviewed for possible use by the Legal Services Corporation and its grantees. For example, the peer review system of quality measurement has attracted wide interest among law firms, bar associations and others in the legal community. Further analysis may result in a system highly useful to the legal profession as a whole, as well as to legal services programs.

TABLE 1: LEGAL SERVICES PROGRAMS PARTICIPATING IN THE
DELIVERY SYSTEMS STUDY

MODEL TYPE	GRANTEE	LOCATION	TYPE OF SERVICE
<i>Pure Judicare</i>	<i>Alternative Delivery of Legal Services</i>	Honolulu, Hawaii	General
	<i>California Lawyers' Service</i>	Santa Barbara, California	
	<i>Legal Help Program of Northeastern Connecticut</i>	Willimantic, Connecticut	
	<i>Senior Citizen Judicare Project Philadelphia Bar Association</i>	Philadelphia, Pennsylvania	
	<i>Northwest Minnesota Legal Services</i>	Moorhead, Minnesota	
	<i>Charles Houston Bar Association Judicare Service</i>	Oakland, California	
	<i>National Conference of Black Lawyers</i>	Chicago, Illinois	
<i>Judicare With Staff Attorney Component</i>	<i>Judicare Center, Federation of Southern Cooperatives</i>	Columbus, Mississippi and Epes, Alabama	General
	Judicare of Anoka county	Anoka, Minnesota	
	<i>Legal Aid Service, Buncombe County Bar Association</i>	Asheville, North Carolina	
	Western Illinois Legal Assistance Foundation	Rack Island, Illinois	
<i>Judicare Supplement to Staff Attorney Program</i>	<i>Georgia Legal Services Programs</i>	Dalton, Georgia	General
	<i>Vermont Legal Aid</i>	Burlington, Vermont	
	New Hampshire Legal Assistance	Manchester, New Hampshire	
	<i>Legal Aid Service Multnomah County Bar Association</i>	Portland, Oregon	Specialized
<i>Prepaid Legal Insurance</i>	<i>Barnett, Jones A Seymour</i>	Norwalk, California	General
	<i>Legal Service for Seniors</i>	Berkeley, California	
	<i>Group Legal Services, Inc.</i>	Los Angeles, California	
	<i>Idaho State Bar</i>	Boise, Idaho	
	<i>Midwest Mutual Insurance Legal Services</i>	Roanoke and Norfolk, Virginia	
	Prepaid Legal Service of Kansas	Dodge City, Kansas	
<i>Contract With I.. Firm</i>	<i>Central Florida Legal Services</i>	Daytona Beach, Florida	General
	<i>Colorado Rural Legal Services</i>	Grand Junction, Colorado	
	<i>Legal Aid Society of Monterey</i>	Monterey, California	
	<i>Legal Services of Middle Tennessee</i>	Nashville, Tennessee	
	Northeast Kentucky Legal Services	Morehead, Kentucky	
	<i>Redwood Legal Assistance</i>	Ukiah, California	
	<i>Utah Rural Legal Services</i>	Salt Lake City, Utah	
	<i>Birmingham Area Legal Services</i>	Birmingham, Alabama	Specialized
	<i>West Texas Legal Services</i>	Fort Worth, Texas	

TABLE 1: LEGAL SERVICES PROGRAMS PARTICIPATING IN THE DELIVERY SYSTEMS STUDY (Continued)

MODEL TYPE	GRANTEE	LOCATION	TYPE OF SERVICE
Clinic	Association of Neighborhood Law Clinics	Boston, Massachusetts	General
	Santa Cruz Community Legal Clinic	Santa Cruz, California	"
Pro Bono	Volunteer Legal Services Program of the San Francisco Bar Association	San Francisco, California	General
	Bet Tzedek	Los Angeles, California	
	Cosseativity Law Offices	New York, New York	
	Legal Counsel for the Elderly Volunteer Lawyers Project	Washington, D.C.	
	New Hampshire Pro Bono Referral Service	Manchester, New Hampshire	
	Volunteer lawyers' Project of the Boston Bar Association	Boston, Massachusetts	
Staff Attorney	Legal Aid Society of Pasadena	Pasadena, California	General
	Connecticut Legal Services	Willimantic, Connecticut	
	Georgia Legal Services Program	Gainesville, Georgia	
	Legal Aid Society of Polk County	We Mains, Iowa	
	Legal Aid Bureau	Baltimore, Maryland	
	Legal Services of Eastern Missouri	St. Louis, Missouri	
	Montana Legal Services Association	Helena, Montana	
	Legal Aid Society of Albuquerque	Albuquerque, New Mexico	
	Bayles Legal Services	New York, New York	
	Orleans Legal Aid Bureau	Albion, New York	
	Legal Services of Southern Piedmont	Charlotte, North Carolina	
	Smyth-Bland Legal Aid Society	Marion, Virginia	

III. FEASIBILITY OF PRIVATE ATTORNEY MODELS

A. INTRODUCTION AND SUMMARY

The first major policy issue the Delivery Systems Study addressed was the feasibility of the private attorney models. The test of model feasibility answered these questions:

- (1) Can the model be put into operation?
- (2) Can the model operate in compliance with the Legal Services Corporation Act and regulations?
- (3) Can the model address the legal services needs of the client population?
- (4) Did the legal community support the model?

The analysis described in this chapter shows that five of the eight models tested were feasible on all four criteria. They were:

- Pure indicate
- Judicare with staff attorney component
- Judicare supplement to a staff attorney program
- Contract with law firm
- Pro bono

Three models -- voucher, clinic and prepaid -- did not demonstrate feasibility.

The one voucher project funded never became fully operational. The two clinic projects did not implement the clinic model as it was specified in the study.

Two of the six prepaid projects **met the** feasibility criteria, but all six projects had substantial difficulties in implementing the model and complying with Corporation **regulations**. No single feasibility criterion was failed by all prepaid projects. Nevertheless, applying the prepaid **concept to poor people** was difficult, and the prepaid **projects** had many compliance **problems**. This indicates that **prepaid models cannot function** easily **within the regulatory scheme** established **for Corporation grantees**.

Table 2 **summarizes** the results of the feasibility **analysis**.

TABLE 2: RESULTS OF FEASIBILITY ANALYSIS

"no Inc ravel n>".				
DELIVERY	Be put into operation?	Operate in compliance with Act and regulations?	Address needs of the poor?	Gain the support of the legal community?
Pure judicare	Yes	Yes	Yes	Yes
Judicare with staff attorney component	Yes	Yes	Yes	Yes
Judicare supplement to a staff attorney program	Yes	Yes	Yes	Yes
Contract with law firm	Yes	Yes	Yes	Yes
Prepaid legal insurance	With difficulty	Mixed results	Yes	Yes
Pro bono	Yes	Yes	Yes	Yes
Legal clinic*	Not as defined	Difficulties encountered	Some evidence	Some evidence
Voucher*	No	Not tested	Not tested	Not tested

* only one voucher project and two clinics were tested. None of these projects followed the model specifications established for the study; therefore, they did not demonstrate model feasibility. Because the Corporation tested only two clinic models, only tentative conclusions can be drawn about the application of the model to legal services for poor people; however, both clinic projects did provide needed legal services to poor people.

B. CAN THE MODEL BE PUT INTO OPERATION?

The first feasibility question -- can a given model be put into operation? -- was answered by examining the three phases of project development and implementation:

- Availability of potential grantees to operate the model
- Reasonableness of plans developed by potential grantees
- Ability of grantees to implement the model specifications.

Availability of potential grantees was determined through the Corporation concept paper and through demonstration project solicitation processes that involved more than 800 individuals and groups in the legal services community. A lack of organizations interested in using a model would strongly indicate that the model was not feasible. The study found potential grantees available to operate all proposed models, although the greatest interest was expressed in the judicare and prepaid models.

The reasonableness of plans was judged by Corporation standards established for reviewing demonstration project applications. Plans were expected to contain full descriptions of purpose, planned approach, and activities and evidence of replicability and specifications conforming to those of the delivery model being tested. The study found that reasonable plans were developed for all models.

Since models, not individual projects, were being evaluated, it was important to specify the necessary characteristics for a project to be included in a particular model category. Efforts were made to describe models that could be implemented, while permitting flexibility

to meet local needs, just as staff attorney programs have been able to adapt their operations to various local conditions. Only essential and distinguishing features of a model were singled out as requirements. Proposals to establish a program under a given model were checked for consistency with the model's key **elements** (see Table 8, page 53).

The study found that all projects funded in five models including **three types of judicare, contracts and pro bono, were able to implement** the models tested. Projects in two models, clinics and voucher, did not follow the model specifications. The clinic projects demonstrated that they could deliver services to poor people, although they did not conform to the study's model specifications. The one voucher project **never became fully operational. The prepaid model experienced major** problems in following the model specifications; only two of the six prepaid projects were able to implement the prepaid model as prescribed.

Table 3 summarizes the results of the implementation analysis.

A discussion of each feasibility criterion follows.

1. **AVAILABILITY OF POTENTIAL GRANTEEES**

Although **grantees were available to operate** all of the delivery models, little interest **was shown** in the voucher model.

In early 1976, the corporation sought ideas on alternative and supplemental delivery **models from more** than 800 individuals and groups within the legal services community, the private bar and the research and academic communities. The solicitation identified the delivery models specified in the Legal Services Corporation Act and requested

TABLE 3: CAN THE MODEL DESCRIBED BE PUT INTO OPERATION?

DELIVERY MODEL	WERE POTENTIAL GRANTEES AVAILABLE?	WERE REASONABLE PLANS DEVELOPED?	DID PROJECTS IMPLEMENT THE DELIVERY MODEL?
Pure			
judicare	Yes	Yes	Yes
Judicare			
with staff			
attorney	Yes	Yes	Yes
component			
Judicare			
supplement			
to a staff	Yes	Yes	Yes
attorney			
program			
Contract			
with law	Yes	Yes	Yes
firm			
Prepaid			
legal	Yes	Yes	Few
insurance			
Pro bono	Yes	Yes	Yes
Legal clinic	Yes	Yes	No
Voucher	Few	Yes (one)	No

concept papers describing substantive proposals, workable ideas, or problems likely to be expected implementing various delivery systems.

The Corporation received more than 100 concept papers in response.

Although some addressed the study only in general terms, commenting on its procedures and objectives, most of the papers discussed specific delivery models, including clinics and pro bonos, which had not been identified by Congress or included in the Corporation's solicitation.

Existing legal services programs and state bar associations submitted most of the concept papers. Table 4 shows the number received from each model and the types of organizations that submitted them. The Corporation used the concept papers to develop specifications for the models to be funded as demonstration projects.

In 1976 and 1977, the Corporation solicited proposals to operate demonstration projects following the various model types that had been developed from the concept papers. The solicitations were circulated widely in the legal, research and academic communities.

Table 5 shows the results of the solicitation and indicates that a substantial number of grantees were available for the judicare, prepaid, contract, pro bono and clinic models but not for the voucher model.

Great interest continues among local program and private attorneys in providing legal services to the poor. Many Corporation grantees have already taken initiatives to utilize the services of private attorneys. The results of the Delivery Systems Study should stimulate further interest. The Corporation has already taken steps to disseminate information about the pro bono activities of its grantees and to support the American Bar Association's efforts to help the private bar

TABLE 4: SUMMARY OF CONCEPT PAPER RESPONSES BY DELIVERY MODEL

DELIVERY MODEL	CONCEPT PAPERS *	NUMBER OF RESPONDENTS FROM:		
		Existing Projects	Bar Assns	Other
Judicare	19	11	6	2
Prepaid legal insurance	17	12**	1	4
Contract with law firm	5	3	1	1
Voucher	3	1	-	2
Legal Clinic	6	1	3	2
Staff Attorney/pro bono	6	3	1	2
Pro Bono	3	-	2	1
Staff /private attorney	14	13		1
Staff attorney only	10	8	1	1
Miscellaneous	9	5	-	4
TOTAL	92	57	15	20

*Papers discussing individual models; the additional papers submitted were general in nature.

**Three papers were submitted by existing Corporation grantees; nine were submitted by existing prepaid plans.

TABLE 5: RESULTS OF SOLICITATION FOR DEMONSTRATION PROJECTS

DELIVERY MODEL	RESPONSES	FIRST SOLICITATION		SECOND SOLICITATION		TOTAL PROJECTS FUNDED
		NUMBER FUNDED	RESPONSES	NUMBER FUNDED		
JUDICARE						
Pure	9	3	9	3		6
With staff	8	2	12	2		4
Supplement to staff program	18	2	11	2		4
TOTAL	35	7	32	7		15
CONTRACT						
General services	11	4	7	2		6
Specialized services	6	2	17	1		3
TOTAL	17	6	24	3		9
PREPAID						
Closed panel	8	2	5	1		3
Open panel	6	2	8	1		3
Clinical approach**	-	-	5	0		0
TOTAL	14	4	18	2		6
PRO BONO	12	1	30	5		6
CLINIC	9	0	12	2		2
VOUCHER						
Individual client						
choice	3	1	4	0		1
Organized client	0	0	0	0		0
group						
Other	2	0	0	0		0
TOTAL	5	1	4	0		1
OTHER	9	0	2	0		0
TOTAL	101	19	122	19		38

*The voucher project was changed to pure judicare in 1977.

**This model was not defined in the first solicitation.

develop pro bono **programs**.¹ In addition, the Corporation's Quality Improvement Project funds four pro bono projects, two projects that use private attorneys to provide litigation support to **staff** attorney programs, and two projects with **pro bono panels** involved in rural delivery and legal services to the handicapped.

The Corporation and the American Bar Association Section on Litigation **are conducting** a pilot trial **advocacy assistance** project in which **experienced** private litigators will help **legal services** lawyers in trial work **on a one-to-one, pro** bono basis.

2. REASONABLENESS OF SUBMITTED PLANS

The Corporation's **proposal review process identified an adequate number of reasonable plans for** all delivery **models except** the voucher model.

The 1976 solicitation **for demonstration project grants** required applicants **to submit** detailed **proposals describing** how they would implement specific **models**. **The Corporation rated each proposal on** four criteria:

- **The promise and reasonableness of 'the approach to implement a particular delivery model'**
- **How readily the approach could be replicated and the generalizability of its results**
- **How well the approach furthered the Corporation's intent to treat models in both urban and rural settings**

1. The Corporation **has developed the Pro Bono Guide**, a handbook for the **establishment of organized pro bono programs**. The ABA's Standing **Committee on Legal Aid and Indigent Defendants and the Special Committee on Public Interest Practice** sponsor a joint Pro Bono Activation Project, with full-time **staff** funded in part by the Corporation. The ABA **Young Lawyers** Division **has provided continued support** for efforts by **its members** to develop **formal pro bono projects**, and also has developed **materials toward that end**.

- Conformity to the models specified in the solicitation, and clarity and specificity of the project description and the purposes to be served.

The same four criteria were used in 1977 for funding another group of demonstration projects (called "Round Two"), and two more were added:

- How well the proposals met the Corporation's need to strengthen the Study design by replicating certain models and model variations funded in Round One
- Service to special groups with problems of access to legal services, such as the elderly and poor people in isolated rural areas.

By the end of the two rounds of solicitations, the Corporation had received reasonable plans for all models except the variation of the voucher model that was to test several delivery systems by alternating referrals to various providers in the same community.¹ Table 6 shows the number of projects of each model type that were funded in each round.

The Corporation funded a total of 38 demonstration projects in the two rounds. The grantees represented well-established organizations, 26 of which had provided legal services prior to receiving demonstration project funding, and 15 of which had served poor clients. The oldest organization had been in existence over 45 years. Table 6 shows the types of organizations that the Corporation funded to operate the 38 demonstration projects. Table 7 shows the history and prior experience of the 38 grantees.

1. The single voucher project funded was the client choice variation, which gave clients the right to choose any provider in the community. This project was changed to a pure judicare in its second year of funding. See page 52 and Appendix A for discussion of this issue.

TABLE 6: GRGAII:IZATIONS FUIIDED TO OPERATE DEMONSTRATION PROJECTS

TYPES OF GANIZATION	PROJECTS FUNDED BY MODEL TYPE					TOTAL
	Judicare	Contract	Pre aid	Pro bono	Clinic	
Existing						
LSC	4	9				13
grantees						
Other public						
legal services	4					4
organizations						
Client or						
community	2		1			3
groups						
Bar						
associations	3		1	3		7
Law firms/						
clinics			2		2	4
Insurance			1			
companies						1
Other private						
organizations	2		1	3		6
TOTAL	15	9	6	6	2	38

TABLE 7: EXPERIENCE OF DELIVERY SYSTEM STUDY GRANTEES

DELIVERY MODEL	EXISTED PRIOR TO STUDY		DID NOT EXIST PRIOR TO STUDY	TOTAL IN STUDY
	Provided legal services	Did not provide legal services		
Pure judicare		6 (2)*	1	7
Judicare with staff attorney component	2	2 (1) *		4
Judicare supplement to a staff attorney program	4			4
Contract with law firm	9			9
Prepaid legal insurance	6			6
Pro bono	3	3 (3) *		6
Legal clinic	1		1	2
Voucher		1		1**
TOTAL	25	12 (6)*	2	38

*The number in parentheses represents the number of projects that had lawyer referral services prior to the Delivery Systems Study.

**The voucher project was converted to a pure judicare in its second year of operation.

3. IMPLEMENTATION OF DELIVERY MODELS BY
DELIVERY SYSTEMS STUDY GRANTEES

Table 8 summarizes the elements of each model type. Each of the projects was examined to determine whether it followed the delivery model it was funded to test. Projects that provided legal services with a delivery scheme that did not include all major elements of the delivery model were not considered to have implemented the model -- even though they provided legal services.

Table 9 shows the number of projects funded under each delivery model that included all of the major elements of the model in their operation.¹

All grantees for three model types (judicare, contract and pro bono) implemented the models they tested. Two of the six prepaid grantees implemented the project model specified in the Corporation's solicitation for proposals. Neither the voucher grantee nor the clinic grantees implemented the models as specified in the solicitation process.

The voucher was designed specifically to test the effects of client choice of delivery system and individual attorneys in private practice. Client choice was also a method of case assignment in the judicare and the general services contract models. (The study found, however, that most demonstration projects referred clients to the next attorney in rotation because clients did not frequently exercise their option to choose an attorney. See Appendix A for core detailed descriptions of the model operations.) The voucher project funded did not

1. Two of the pure judicare projects had major operational difficulties and did not achieve a steady level of operation over the two years they were funded as demonstration projects. In each instance, the failure appeared to be caused by management problems associated with the particular grantee, and not by characteristics of the judicare model.

TABLE 8 : SPECIFICATIONS OF MODELS TESTED IN THE DELIVERY SYSTEMS STUDY

MODEL COMIORERTS		DELIHUT MODELS						
		<u>indicate</u>	<u>Prepaid</u>	<u>Contract</u>	<u>Clinic</u>	<u>pro Inc</u>	<u>voucher</u>	
		(Pure IStafff Sunolneot)	o	Closed	General	Specifal		
Type of Paoell		<— Open ——>	open	Closed	<- Closed	—>I Closed	Open	Open
Staff reaction	Ileg- knell	ILegal	Igoe, illegal	I Legal	J<- ioa-lftai	—>I Legal	Ibn-legal	I be-legal
Type of Service	I<- esy vdtbin act	Prescribed	I Set	I hey . I Llitedl unless	I iigb	I Any	I According to	I Priorities set by eligible clients
Method of Pseysesc	I<-Fee for Service	—>I-Service-alc^	I Fee For	I Guaranteed Service	I Fee for Service	I Out of Seniene	I Pocke	I uptors&I of to of vouchdes
Case Aesigoaent	I<-Client Choice	—>I<- kaferral	I or Client choice	I Referral	I Referral	I Referral	I Referral	I Referral
Fee Review	I<-^ Yes	—>I, - yes		yen	—> Yes	I in	I No	
Eligibility Check	I<-^ Tee	—>I<- yes	—>I<- Tee	—>I yes	I yes	I yes	I yes	
Provision for Overhead	I< Yes	I >I<- Us	I —>I<- Tee	—>I No	I yes	I Yes		
Type of Grantee	I Any SAO . Public or I Prepaid Plan/ I Private	I law rim	I<-^ SAO	I or law For	I Clinic I Aay PublleI client or	I Cosaemity	I Firs I Organiza	I Group
	I Organization		I	I	I	I	I	I
Existing Plan								
HethoC of Identifying Ecrollées-								
Existence of actuarial Bass								
Lou Tee					yen			
Only Muutias Cases					yes			
Standardized Pose and Computerised Systea.					Yes			

* Staff attorney, organization.

TABLE 9: NUMBER OF PROJECTS IMPLEMENTING ALL MAJOR MODEL ELEMENTS

DELIVERY MODEL	NUMBER OF <u>PROJECTS FUNDED</u>	NUMBER THAT IMPLEMENTED ALL MAJOR ELEMENTS OF <u>THE MODEL</u>
JUDICARE		
Pure	7	7
with staff	4	4
Supplement to staff attorney program	4	
TOTAL	<u>15</u>	15
CONTRACT		
General	6	6
Specialized	3	3
TOTAL		9
PREPAID		
Open panel	3	0
Closed panel	3*	2
TOTAL	6	2
PRO BONO	6	
CLINIC	2	0
VOUCER	1	0
TOTAL	39**	34

*One prepaid project used an open panel in one community and a closed panel in another community in the same state. The table shows only one project funded, and it is listed as a closed panel project.

**Only 38 grantees were funded. The voucher grantee also is listed

as a pure judicare.

operate in a way that permitted clients to freely choose an attorney, which is an essential element of the model. The project director discovered, soon after operations began, that clients rarely knew of any local attorneys and therefore had no preferences. Instead of forcing clients to make an uninformed choice of attorney, the director provided them with a list of attorneys who had agreed to participate and assisted the clients by giving them information on attorneys' background and experience. Once the element of absolute freedom of choice was abandoned, however, the project essentially functioned as a judicare model because it included a mechanism to refer clients to attorneys. The Corporation and the grantee agreed to convert the project to a pure judicare model at the beginning of its second year.

The two legal clinics did not follow the model specifications set forth in the Corporation's solicitation. While one clinic project followed parts of the model specifications by using paralegals and focusing on services to low-income clients, it did not develop a system for handling high-volume routine cases. The other clinic project functioned as a series of small staff attorney offices by locating in the community being served, by handling routine cases, doing impact work and using paralegals and law students. Even though neither project functioned in a way which would provide high-volume/low-cost services, an important element of the model specifications, both projects provided needed services to poor people.

Four of the six prepaid plans were unable to implement the prepaid model as it was defined in the study. The prepaid plans had difficulty with two key elements of the prepaid model: (1) establishing an

actuarial system on which to base premiums, and (2) identifying and enrolling a group of eligible poor persons.

The Corporation intended to fund prepaid projects on a per capita basis for a prescribed set of benefits, but only two of the six prepaid projects were funded by the Corporation in that manner. The other four plans received grants from the Corporation based on budgets similar to those of judicare projects, i.e., with line items for staff salaries, legal fees, overhead and other operating costs. These four projects did not have actuarial systems, which any prepaid plan would need to determine utilization rates and to estimate service costs for poor people enrolled in the plans. These four projects did not conform to the prepaid legal insurance model as it is conceived in the marketplace or as it was defined for the study. However, because the Corporation was interested in learning how these types of projects would function when applied to poor people, it continued to fund all four projects as study grantees.

The Corporation's prepaid model specified that grantees were to enroll a designated group meeting Legal Services Corporation guidelines. Prepaid plans commonly used two methods to obtain group members: voluntary enrollment and automatic enrollment. Four plans used voluntary enrollment, which proved to be time-consuming, costly and unwieldy. Two prepaid grantees used automatic enrollment by automatically designating eligible persons living in the project service area as members of the prepaid group. These projects did not have the enrollment problems experienced by the prepaid projects using voluntary enrollment, but they did not meet the model requirements by enrolling a specified group of individuals. (See Appendix A for a more detailed discussion of the prepaid legal insurance model.)

C. CAN THE MODEL BE OPERATED IN COMPLIANCE WITH THE
LEGAL SERVICES CORPORATION ACT AND REGULATIONS?

The second feasibility question -- can the model operate in compliance with the Act and regulations? -- was answered using the monitoring criteria the Corporation has established for its field programs. Under current practice, Corporation regional offices monitor programs to ensure compliance with the Act and regulations, and to ensure the project meets Corporation financial management standards and guidelines on program administration and operations.

Most of the projects in the judicare, contract and pro bono models operated in compliance with these regulatory and administrative guidelines. Prepaid and clinics were the two models in which all the demonstration projects failed to meet one or more of the compliance criteria after two or three years of operation.

Table 10 summarizes the results of the analysis. The next section discusses the two types of compliance criteria used: (1) compliance with the Act and Corporation regulations and (2) financial management and administration.

1. COMPLIANCE WITH THE ACT AND REGULATIONS

Monitoring of demonstration projects identified several obstacles to implementing private bar delivery models. These obstacles existed essentially because the Corporation's statutory and regulatory scheme was established for existing grantees, most of which were engaged in full-time legal services practice. The most difficult problems arose

TABLE 10: DEMONSTRATION PROJECT COMPLIANCE **WITH CORPORATION** REGULATIONS
POSING DIFFICULTY FOR PRIVATE **ATTORNEY** MODELS

DELIVERY MODEL	WERE MODELS ABLE TO MEET THE PROVISIONS DEALING WITH:					
	Governing boards	Compensation for services	Fee generating cases	Priority setting	Financial accountability	Program administration
Judicare	Yes	Yes	Yes	Yes	Yes	Yes
Contract	Yes	Yes	Yes	Yes	Yes	Yes
Prepaid	* No	Yes	Yes	Partially e*	Partially **	Yes
Pro bow	Yes	Yes	Yes	Yes	Yes	Yes
Clinic	No	Yes	Yes	Yes	Yes	Yes
* > Voucher						

*One of six projects did comply by creating **a new and** separate organization **governed** by a board that did comply with the regulations.

"Four of the six projects met the Corporation's audit requirements.

After nine months of operation, this project **was converted to pure judicare project.

over provisions regarding grantee governing boards, referral of fee-generating **cases**, setting priorities for the provision of legal assistance and the annual financial audit required of all Corporation grantees.

a. GOVERNING BOARDS

Legal Services Corporation Regulation Section 1607 . 3 requires all Corporation grantees to be governed by a board composed of at least 60 percent attorney members and at least 33 percent clients eligible for legal services. Some of the organizations funded, such as bar associations and commercial prepaid legal insurance plans, had preexisting organizational structures. Their governing bodies were not constituted in accordance with the Act, nor did they want to change their board structures in order to receive demonstration project funds.

The Corporation permitted these grantees to establish a separate policy board to operate the demonstration projects. In order to comply with Corporation regulations, the policy boards were constituted in accordance with the Act and had full authority for demonstration project policy and operations.

The majority of the 38 projects complied with board requirements. However, all projects in the prepaid and legal clinic models had problems with compliance on board structure. In five of the six prepaid projects, the authority and autonomy of the policy board was never satisfactorily resolved. One prepaid project resolved its problems by forming a new corporate structure independent of its parent organization.¹

1. Three demonstration projects formed new independent corporations because they were not able to resolve conflicts over the governing power of the parent organizations and the demonstration projects' policy boards.

Neither legal clinic project complied with **the regulation governing the board selection.**

Two of the six pro bono projects had difficulty complying with the Corporation's interpretation of Section **1607 concerning the selection of project governing board members**. One project had public officials **seated on the governing board**, a practice **contrary to Corporation policy because of the potential conflicts of interest**. In the other project, **sponsored by a bar association**, the president of the association had authority **to make the final appointments** of all **members** of the board, including **members who served as representatives of other community groups**. The Corporation's position was that authority to appoint **board members had to rest in the community groups that designated them**.

Both **pro bono** projects **argued** that **their practice was necessary to generate support** in the community **for the pro bono concept** and to give the project **the legitimacy needed to attract lawyer volunteers**. Both **resisted** Corporation **instructions to bring their governing boards into compliance with the regualtions on the grounds that such action would hurt their attorney recruitment efforts**.

b. COMPENSATION FOR SERVICES

Legal Services **Corporation** **Regulation Section 1607.6** prohibits **board members of Corporation grantees from receiving compensation from the grantee**. This **meant not only that a board member of a demonstration project could not accept a fee from the project** for providing legal services, but also that **a board member's firm was precluded from accepting a fee from the project**. Attorneys **genuinely interested in**

legal services for the poor had to chose **between serving** clients or serving on the project's board of directors.

The Corporation interpreted the Act not **to extend** to partners or to associates of board members, **so long as board members did not** benefit financially from their participation in the project. The fees could not be placed **in a general partnership fund nor used** to cover general office **expenses**. This interpretation **was useful** only when firms **were** willing to **set up** special bookkeeping to handle **fees earned** from **demonstration** projects. The statutory prohibition limited the ability of attorneys to participate **in demonstration** projects that **compensated attorneys** for their services if local law **firms were not** willing to **treat project** fees differently **than other firm income**. One rural project had difficulty recruiting **enough lawyers** both to fill its board and to provide service; the affiliation of lawyers to firms in the **area was so extensive** that virtually all lawyers **interested** in providing **service were** disqualified **because a partner served on the board**.

c. FEE-GENERATING CASES

The Corporation also had to review its existing policy on the handling of fee-generating cases to apply it to the demonstration projects. Section 1007(b)(1) of the Act prevents use of Corporation funds to provide legal assistance in any fee-generating case "except in accordance with guidelines promulgated by the Corporation." The Corporation's implementing regulation, Section 1609, requires that all fee-generating cases be referred "unless other adequate representation is unavailable." The regulation states specific instances in which other adequate representation is deemed unavailable, but its thrust is

to ensure that Corporation **grantees**, mainly staff **attorney programs**, do not compete with attorneys in private practice.

The Corporation interpreted this regulation **to mean that** private attorneys functioning **as "project attorneys" were automatically prevented** from accepting **fee-generating cases from** eligible clients and **were required to refer** the clients, **using the same set of** rules that applied to **staff attorneys**. **Some private attorneys argued that they should be permitted to accept fee-generating cases because** they would **be compensated** through the **recovery of a fee and** not with Corporation funds, thereby falling outside the proscription of the Act. Others claimed that private attorneys would not **participate in demonstration projects**, particularly **in pro bono models**, if they could **not accept referrals of fee-generating cases**.

The Corporation's position was that the regulations expressed a policy decision **that Corporation funds should not be used to support referral systems that give participating private attorneys a monopoly over fee-generating cases among the eligible client population**. It was a question of degree. If the demonstration project referred clients to a large, broadly based panel of private attorneys and if **private attorneys could freely join the panel, the demonstration project could use its usual referral system to refer fee-generating cases**. The attorney to whom the case was referred had to accept it at the outset **either on a contingent fee basis or as a demonstration project case**. However, in closed panel models, or where the panel was small in size, the project had to establish a separate mechanism to **refer fee-generating cases**.

Eighty percent of the demonstration projects complied with the fee-generating regulation. Those that did not generally lacked a written policy for handling referrals and did not commit an actual violation in practice.

d. PRIORITY SETTING

Section 1007 (a) (2) (c) requires the Corporation to ensure that all grantees establish priorities for the provision of legal assistance. The Corporation regulation on priority setting, Section 1620, contemplates an ongoing, flexible system of identifying community needs and developing a service delivery system after receiving input from staff, board members and client and community representatives.

Twenty-six of the 38 demonstration projects complied with the priority-setting regulation. The requirement to set priorities posed particular difficulties for the prepaid model, which is based on a contractual obligation to provide a schedule of legal benefits for a fixed fee, but two prepaid projects did go through a priority-setting process.

e. FINANCIAL AUDIT

Under Section 1009 (c) (1) of the Act, the Corporation is required to obtain an annual financial audit of each of its grantees. The private sector grantees funded in the study presented the Corporation with problems in meeting this obligation that it had not encountered before. The most serious problems arose with prepaid plans. Some of the plan administrators claimed that budgetary information and other data reflecting their operating costs were "proprietary" and

"privileged" and that disclosure should not be required of them.

They likened their situation to that of a health insurer and argued that the Corporation should negotiate for a specified schedule of benefits for a fixed premium, not demand a detailed accounting of the administrator's or insurer's operations.

All grantees were audited. Special problems **arose** with one prepaid grantee, an insurance company. The Legal Services Corporation Comptroller required that established procedures for insurance company audits be used in auditing this grantee. This procedure required verification of the purchase of policies for the insured.

The auditing firm attempted to contact a sample of the Corporation-supported policyholders to verify the existence of the insurance policies. Thirty-seven percent of the sample drawn had moved and could not be located, and 6 percent of the **same** indicated they did not know that they had legal insurance. Therefore, the audit failed to yield an unqualified opinion on the use of the project's grant funds.

2. PROCRA'1 ADMINISTRATION AND FISCAL MANAGEMENT

The demonstration projects were monitored by the Delivery Systems Study staff. The major administrative **and management** problem encountered by the demonstration projects was developing adequate financial control systems. Except for pro bono, all of the models compensated private attorneys on some form of fee basis. Therefore, these demonstration projects had to manage their grant funds to meet two objectives: to be able to take in new cases throughout the grant year, and to be able to cover all payments for services by the participating attorneys throughout the grant year.

A number of demonstration projects encountered demands for services that exceeded their means. Some projects ran out of funds for attorneys' fees or had to stop accepting clients before the end of the grant year. The Corporation added a general condition to demonstration grants in the second year of the study requiring projects to institute a system to estimate and commit grant funds for cases as they were opened, in order to cover all anticipated attorneys' fees. The systems to commit funds ranged from simple projections based on the project's best estimate of expenses to sophisticated formulas designed to project fees based on project experience. By 1979, all demonstration projects had systems to encumber funds for attorneys' fees.

D. CAN THE MODEL ADDRESS THE **LEGAL SERVICES NEEDS** OF THE CLIENT POPULATION?

The third feasibility **question** -- Can the model address the legal services needs of the client population? -- **was addressed by examining the types of cases that projects in the model handled in relation to the project functions.**

The delivery **models could have two types of functions** : providing a full **range of legal services**, or providing more focused representation either for certain types **of legal problems or for specific groups of poor people**. The **standard for determining** if a full range **of services** was delivered **was the experience** of the **12 staff attorney programs** in the study. A project **was expected** to provide **limited representation** if the project **was designed and funded to serve a specific segment of the client population or to handle only a few types of cases**.

A model **was considered to have addressed** the legal **services needs of poor people** if projects **funded to provide a full range of service had caseloads similar to the staff attorney program, and if projects funded to serve selected poverty groups or to handle special poverty law problems did so.**

The feasibility **analysis** indicated that **all model types were able to meet the legal services needs of poor people**. Table 11 **summarizes the results of the analysis**.

1. METHODOLOGY

Two analytic **steps were used to determine whether the legal needs were met by a model**.

TABLE 11: MEETING LEGAL NEEDS OF THE CLIENT POPULATION

DELIVERY	DID THE MODEL PROVIDE THE TYPES OF LEGAL SERVICES IT WAS DESIGNED TO PROVIDE?	
MODEL	Full range of service	Limited representation
Pure judicare	Yes	Yes
Judicare with staff attorney component	Yes	--
Judicare supplement to staff attorney program	Yes	Yes
Contract with law firm	Yes	Yes
Prepaid legal insurance	Yes	Yes
Pro bono	Yes	Yes
Clinic		

***Because the** Corporation funded only two clinics and they did not follow the model specifications, no conclusion is drawn. However, the two projects did provide a full range of services similar to those of the staff attorney program.

- Identify the purpose of projects within a model type. and
- Establish a definition of legal need of the poor.

Each is described below.

a. PROJECT PURPOSE BY MODEL TYPE

Section 1007 (g) required the study to test private attorney models as alternatives and supplements to the existing staff attorney program. Some of the demonstration projects functioned as complete delivery systems (alternatives) and others as parts of already existing delivery systems (supplements).

Projects funded as alternative models were expected to provide a full range of legal services both in the poverty law and general law areas. Those funded as supplements had one of two objectives: (1) to provide a full range of services to at least part of a community or (2) to provide legal services on specific types of legal problems.

As it turned out, the actual operating conditions of the 38 demonstration projects did not always reflect the distinction between alternatives and supplements. Some projects funded as alternatives developed cooperative relationships with staff programs in the area. In some situations, this led to the alternative model providing general services and referring poverty law cases to the staff attorney program. As the study progressed, four variations on the alternative system and two variations on the supplement system emerged.

The four alternative systems functioned as follows:

- I. Exclusive Provider of Services. Seven private attorney models operated as the sole provider of services in a geographic area and provided services to the client community based on priorities set by the program. These projects operated primarily in rural areas.

- II. Complements to Staff Attorney Program. Independent organizations in 10 communities provided complementary services to clients in a geographical area. These included staff attorney programs as the core legal services provider, with the private attorney models handling certain types of cases (e.g., divorce referrals to private bar, poverty law cases to staff programs). Most of these systems operated in urban areas.
- III. Private Bar Projects and Staff Attorney Programs Operating Unrelated Systems. Two separate, unrelated delivery systems served the same geographical area but functioned as if each were the sole provider of services. These situations occurred primarily in urban areas. Eight demonstration projects operated in this fashion.
- IV. Service to Elderly. Five demonstration projects operated in communities with other legal services programs established referral mechanisms with the other legal services and social services programs in the community.

The two supplement systems operated as follows:

- V. The Private Bar as Specialists. A staff attorney program and its private bar supplement handled different types of legal problems. The types of legal work to be performed by the private bar were defined by the staff attorney programs (e.g., divorces, defense in automobile insurance claims). These systems operated in urban areas and included three demonstration projects.
- VI. Supplement Systems Using the Private Bar to Serve a Geographic Area. A staff attorney program and a private bar supplement provided a full range of services; however, the private bar served rural areas that were hard to reach by existing staff attorneys' offices. Ten demonstration projects were in this category.

To test model appropriateness, the demonstration project models were examined in relation to their three different purposes:

- I, II and III were to function as alternative projects, capable of providing a full range of services to a community.
- IV was to function as an alternative model serving the elderly.
- V was to function as a supplement, capable of providing specified services to a community.
- VI was to function as a supplement, capable of providing a full range of services to a community.

Table 12 shows that System Types I, III and VI were expected to provide a full range of service. Type II might or might not provide full services depending on the referral processes and nature of services offered by other legal services programs in the community. Types IV and V should have provided more limited types of service.

Table 13 shows which models were tested in the five types of delivery systems.

b. STANDARD FOR ADDRESSING LEGAL NEEDS OF CLIENTS SERVED

The standard for measuring whether a model addressed the legal needs of the client population was derived from the experience of the 12 staff attorney programs in the study.¹ Poor people have many types of legal problems, some of which are experienced by the general population and some of which are not; for example, legal problems related to income maintenance benefits or subsidized housing. Legal services programs for the poor, therefore, handle a wide range of case types. (The types of cases handled by individual programs may vary considerably, however, due to local priority setting.)

The distribution of the types of cases handled by the 12 staff attorney programs is similar to the distribution found in the other 48 staff attorney programs in the study. The first line of figure 2 shows the distribution of major types of cases handled by the staff attorney program (average of the 12 staff attorney programs). The major types of cases were income maintenance (18 percent), private housing (16 percent), divorce (15 percent), other family (12 percent),

¹ The distribution of the types of cases handled by the 12 staff attorney programs is similar to the distribution found in the other 48 staff attorney programs.

TABLE 12: TYPES OF SERVICES DEMONSTRATION PROJECTS ~~WERE DESIGNED TO PROVIDE~~

DELIVERY SYSTEM IN AN AREA CONSISTED OF: **DEMONSTRATION PROJECTS
WERE EXPECTED TO PROVIDE:**
**Full Range I Limited
of Services Representation**

Alternative delivery systems

I. Only private bar projects exclusively	Yes	No
II. Private bar project and staff program as complements	Yes	No
III. A private bar project and staff programs operating unrelated delivery systems	Yes	No
IV. Either system II or III but with private bar serving only the elderly	No	Yes

Supplements to staff attorney programs

V. Staff attorney program using private attorneys as specialists	No	Yes
VI. Staff attorney program using private attorneys to serve a specific geographic area	Yes	No

TABLE 13: DESCRIPTION OF DELIVERY SYSTEMS IN COMMUNITIES SERVED
BY DEMONSTRATION PROJECTS

DELIVERY SYSTEM TYPES	PROJECTS BY MODEL TYPE					TOTAL DEMONSTRATION PROJECTS
	* Judicare	Contracts	Pre aid	Pro bond	Clinic	
I. Private bar projects exclusively	5	0	1	0	0	6
II. Private bar projects a cosplayers to staff program	2	0	1	4	1	8
III. Private bar projects serving Sae area as staff progra	2		3		1	6
IV. Private bar projects serving the elderly	2		1	2		5
V. Staff program using private bar as specialists	1	2	0	0	0	3
VI. Staff program with private bar serving specific geographic area	3	7	0	0	0	10
TOLL	15	9	6	6	2	38

* Includes all three types of judicare projects: pure, with staff, and supplaent to a staff attorney progra.



FIGURE 3: ILLUSTRATION OF CRITERION FOR DETERMINING WHETHER PRIVATE ATTORNEY MODELS PROVIDE A FULL RANGE OF SERVICES

consumer finance (12 percent), wills (2 percent) and all other case types (25 percent).

Figure 3 also shows hypothetical delivery models that are expected to produce a full range of service but do not meet the standard set by the staff attorney model. Ninety-five percent of model A's cases are divorces, with the rest of the cases falling in the "other" category. Model B shows a similar pattern in representation by having divorces and "other family" as the major part of the total caseload. Model C deviates considerably from the standard by having over 60 percent of the total caseload in the "other" category (such as defense in automobile insurance claims) and twice the amount of divorce cases

as the staff attorney program. These three examples are considered to have case mix distributions that are "too limited" **for a** full service program. They did not **demonstrate** that they could adequately handle the range of problems **the poor are** know to have.

2. ANALYSIS

a. **FULL SERVICE PROJECTS**

An analysis of variance was conducted on each category of system type described in Table 13 to determine if the distribution of cases handled by the private bar models differed significantly from the staff attorney program. Ideally, the demonstration projects in the categories expected to provide a full range of services should have distributions similar to the staff attorney program (i. e., Types I, II, III and VI systems), while the demonstration projects expected to provide more limited types of services (i. e., Types IV and V systems) should show concentration of work on certain types of cases. Even though differences were found in individual types of cases for certain model types, none of the private bar models expected to provide a full range of services had more than one case type that showed statistically significant differences from the average staff attorney project caseload.

Figures 4, 5, 6 and 8 show how the models expected to provide a full range of services compared to the 12 staff attorney programs in the study.

b. **PROJECTS PROVIDING MORE LIMITED REPRESENTATION**

Table 14 shows the nature of the specialization for each project by model type. The case mix of these projects indicates that the planned representation was offered and that the needs of the client

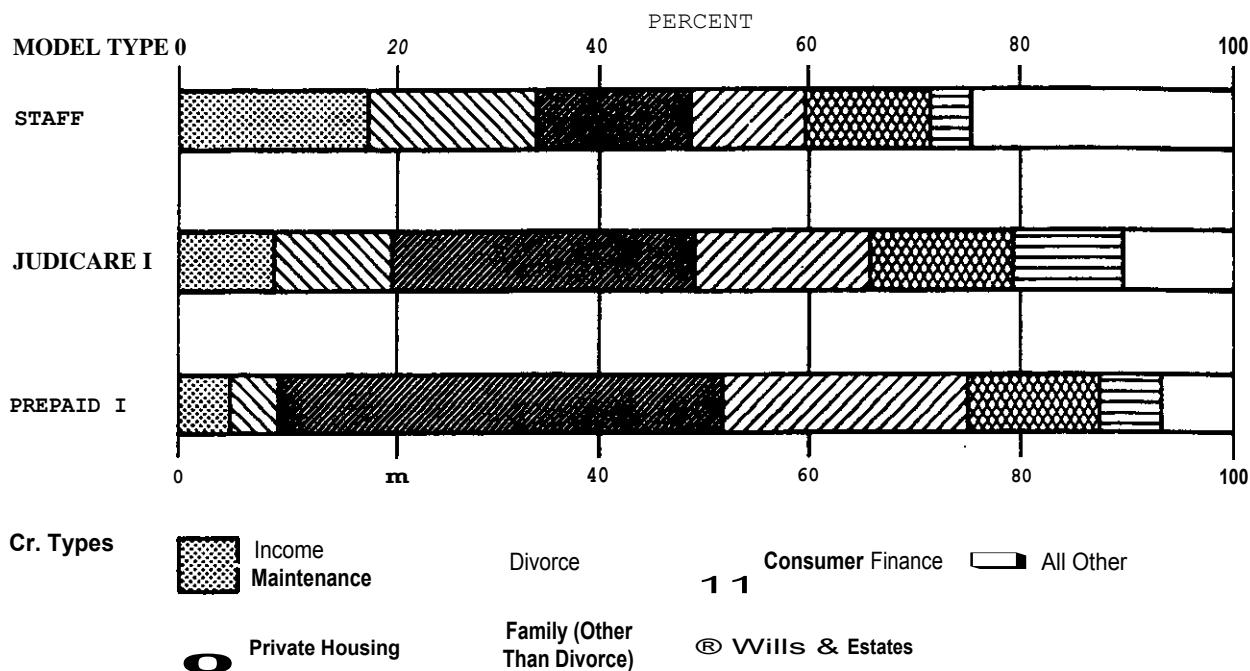


FIGURE 4: ALTERNATIVE SYSTEM I (PRIVATE BAR PROJECTS ONLY): PERCENT OF TOTAL CASES CLOSED BY MODEL TYPE AND CASE TYPE

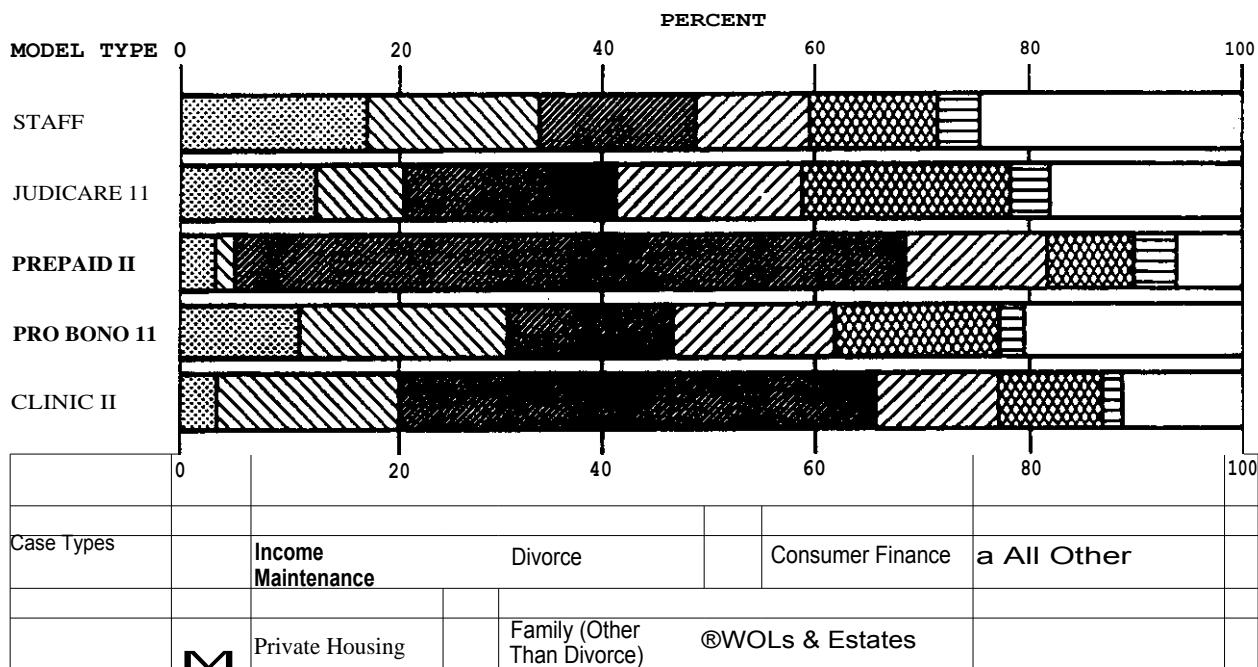


FIGURE 5: ALTERNATIVE SYSTEM II (PRIVATE BAR PROJECTS AND STAFF PROGRAMS AS COMPLEMENTS): PERCENT OF TOTAL CASES CLOSED BY MODEL TYPE AND CASE TYPE

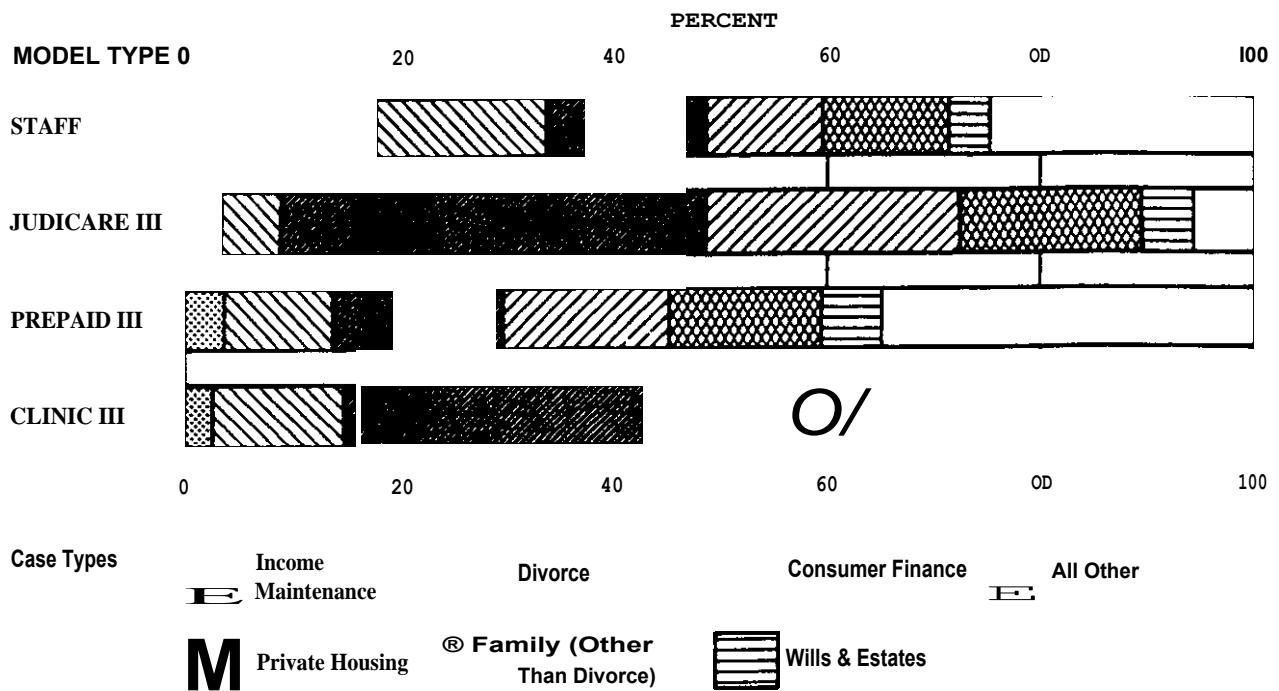


FIGURE 6: ALTERNATIVE SYSTEM III (PRIVATE BAR PROJECTS AND STAFF PROGRAMS OPERATING UNRELATED DELIVERY SYSTEMS): PERCENT OF TOTAL CASES CLOSED BY MODEL TYPE AND CASE TYPE

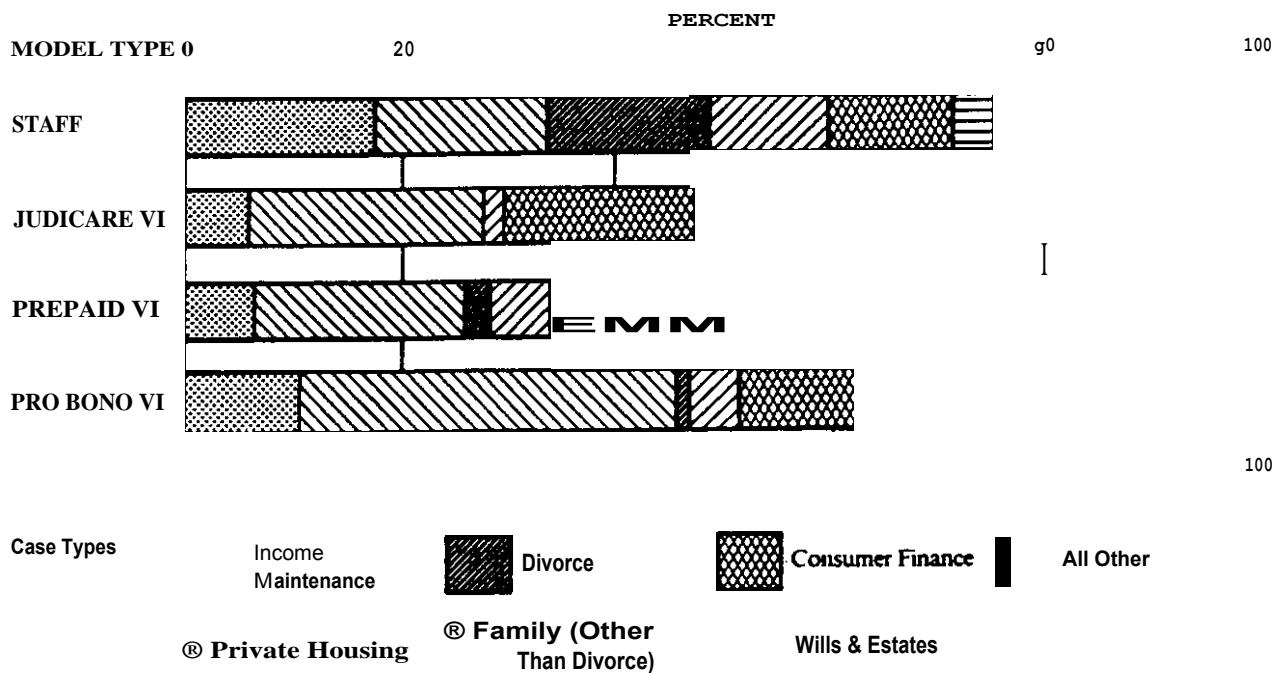


FIGURE 7: ALTERNATIVE SYSTEM IV (PRIVATE BAR PROJECTS SERVING ONLY THE ELDERLY): PERCENT OF TOTAL CASES CLOSED BY MODEL TYPE AND CASE TYPE

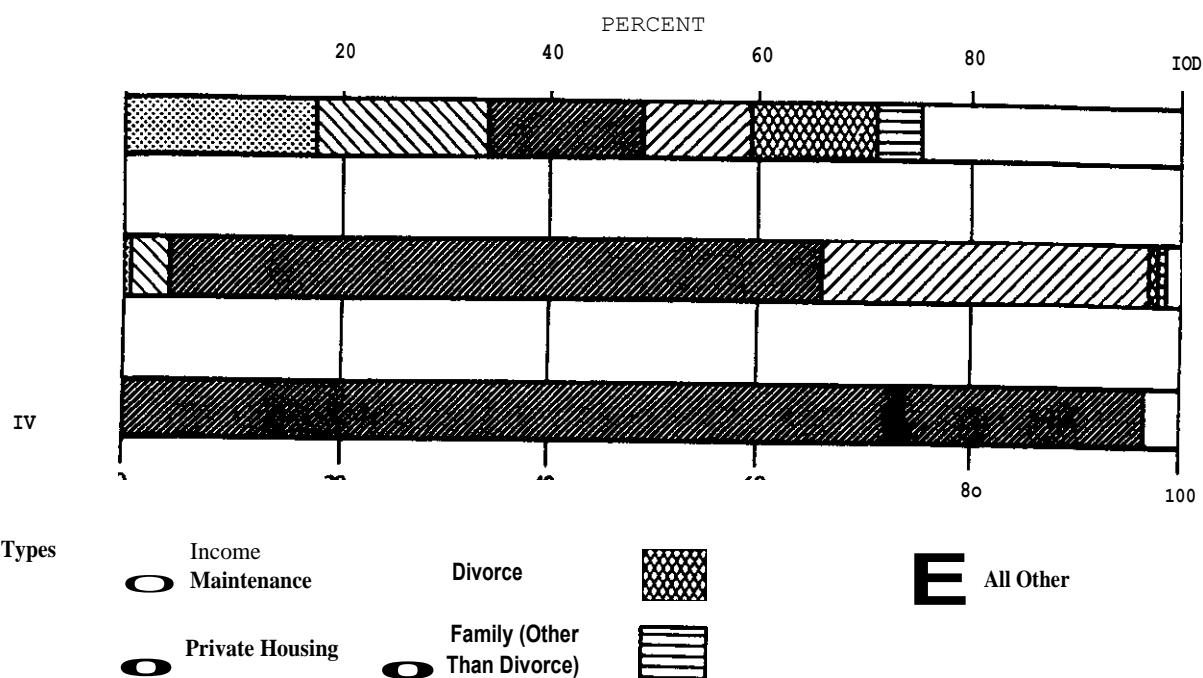


FIGURE 8: SUPPLEMENT SYSTEM V (STAFF ATTORNEY PROGRAM USING PRIVATE BAR AS SPECIALISTS): PERCENT OF TOTAL CASES CLOSED BY MODEL TYPE AND CASE TYPE

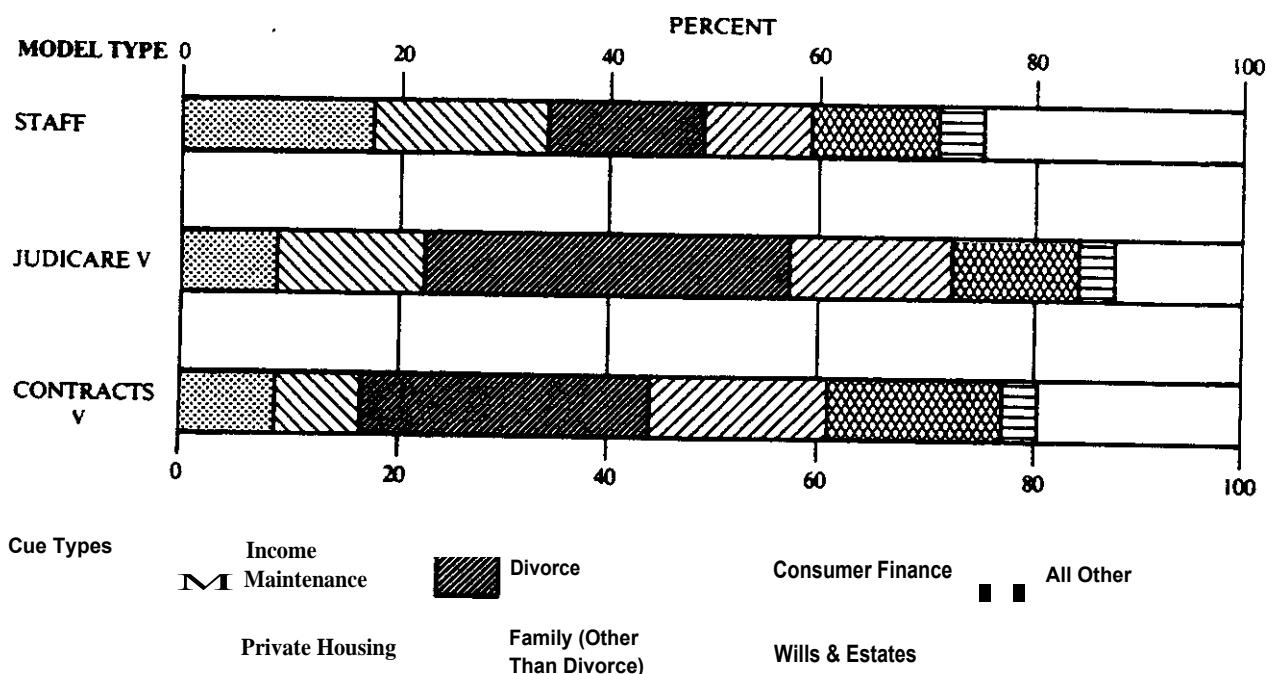


FIGURE 9: SUPPLEMENT SYSTEM VI (STAFF ATTORNEY PROGRAM USING PRIVATE BAR TO SERVE A SPECIFIC GEOGRAPHIC AREA): PERCENT OF TOTAL CASES CLOSED BY MODEL TYPE AND CASE TYPE

TABLE 14: COMPARISON OF DEMONSTRATION PROJECTS PROVIDING LIMITED
REPRESENTATION TO STAFF ATTORNEY **PROGRAM**

TYPE OF REPRESENTATION	DEMONSTRATION PROJECTS (by delivery model type)	CASE TYPES SIGNIFICANTLY DIFFERENT FROM AVERAGE STAFF PROGRAM	DEMONSTRATION PROJECT (percent of total cases)	AVERAGE STAFF PROGRAM (percent of total cases)
Service to elderly*	Judicare A	Wills	39%	3%
	Prepaid A	Wills	21%	3%
	Pro Bono A	Wills	9%	3%
	Pro Bono B	Wills	9%	3%
Family law	Judicare B	Divorce	502	15%
		Other family	39%	13%
	Contract A	Divorce	39%	15%

* Adequate **data were** not available **on one** judicare project designed to serve the elderly.

community were addressed. For example, the projects designed to serve the elderly did considerably more wills than the average staff attorney program (from 9 percent to 39 percent of the total project caseload compared to 3 percent for the average staff attorney program). The demonstration projects focusing on family law had caseloads that reflected this specialization. For example, judicare project B's caseload included 50 percent divorces and 39 percent "other family" as opposed to 15 percent divorces and 12 percent "other family" in the average staff attorney program.

Figures 7-8 show that both Types IV and V delivery systems varied significantly in the distribution of cases handled -- as expected from their design.

E. DID THE LEGAL COMMUNITY SUPPORT THE MODELS?

Sustained and effective legal **representation** of the poor is affected by the support of the legal community in which a **program** operates. The study **examined** whether the private attorney models could develop this support.

Two criteria **were used to measure support for the private bar** projects from the legal commtmity: 1 acceptance by the organized bar and acceptance by staff attorney **programs** operating **in the same area**.

All models **tested demonstrated** their ability **to win support**:

- All projects received **some** support from local bar associations. **Sixteen received direct support; the remainder** (22) received either general support or tacit support, i.e., no opposition from the bar.
- Twenty-three of the 38 private bar projects (61 percent) **were endorsed by staff attorney programs in their areas**.

1. ACCEPTANCE BY THE ORGANIZED BAR

The Corporation's monitoring of the demonstration projects produced information on the relationships between the projects and the organized bar in their **respective service areas**. **The data were reviewed for** evidence of bar support or opposition.

The organized bar response to the demonstration projects can be classified as follows: as direct support, tacit support, or opposition.

Direct support included situations where the bar applied for and operated a private attorney model. Bar associations were grantees for six of the 38 demonstration projects. Direct support also included

1. **More than 2,500 private attorneys agreed** to participate in **the demonstration projects**. **With one exception, no project encountered** difficulty in finding **enough private attorneys to operate** its model.

situations where the bar provided tangible support, such as space, attorney recruiting assistance and endorsements. Tacit support included situations where the bar did not oppose or comment negatively on the project's operations in the community, or where the bar was not actively involved with the project. Opposition included situations where the bar spoke out or acted against the program.

Table 15 shows the organized bar's reaction to the projects as documented through the monitoring process. Although several projects in their early operations had conflicts with bar associations, bar relations generally improved over time and the table reflects the most current information on response. As Table 15 shows, bar opposition was not evident in any of the demonstration projects.

2. ACCEPTANCE BY STAFF ATTORNEY PROGRAMS

Program directors of staff attorney programs operating in the same service area as the demonstration projects were interviewed in February 1980 to determine their attitudes toward private attorney projects after two or three years of project operations. They were asked to characterize their relationship with the private attorney project in one of three ways:

- As manager. The staff attorney program operated and managed the demonstration project (i.e., judicare supplements and contracts).
- As a cooperative effort. The staff attorney program and the demonstration project were independent organizations but formed some type of cooperative relationship to serve clients in their mutual service area.
- As an observer. The staff attorney program formed no formal relationship with the demonstration project but was aware of project activities.

TABLE 15: ORGANIZED BAR REACTION TO PRIVATE ATTORNEY MODELS*

NUMBER OF PROJECTS WITH:					
DELIVERY MODEL	Bar association as rantee	Direct support	No strong interest or involvement from bar	Opposition from bar	TOTAL PROJECTS FUNDED
Pure judicare	2	1	4	0	7
Judicare with staff	1	1	2	0	4
Judicare <u>supplement to staff attorney program</u>	0	3	1	0	4
Contract	0	0	9	0	9
Pro bono	3	2	1	0	6
Prepaid	0	3	3	0	6
Clinic	0	0	2	0	2
TOTAL	6	10	22	0	38

*Source: Legal Services Corporation monitoring reports for demonstration projects, summer 1979.

Each director **was asked a number of questions**, including:

- "Based on your experiences, what is your attitude toward using private attorneys in delivering legal services to the poor: favorable, neutral, or unfavorable?"
- "If you **had discretion on how to use the money**, would you favor **continuing this model of service delivery?** Yes or No?"

Table 16 shows **the responses** of the directors of 37 staff attorney **programs** that had a **managerial**, **cooperative**, **or observer** relationship with a private attorney model.¹

In general, staff attorney program directors who managed private attorney models or whose programs formed cooperative relationships with a private attorney model had a more positive attitude toward involving private attorneys than did program directors who merely observed a private attorney model operate.² Managers of judicare supplement and contract models, and directors of staff attorney programs that cooperated with pure judicare and pro bono models had particularly positive attitudes toward using private attorneys. Program directors with managerial or cooperative relationships with a private attorney model generally favored continued funding of the model, while the directors who only observed a model (and who gave an opinion) did not favor continued funding.

Many program directors considered private attorneys a useful resource for doing routine case work. Although the directors did not view the private attorney supplements to staff programs as useful for

1. Four demonstration projects operated in uncovered areas and were not included in the survey. Three demonstration projects had relationships with more than one staff program.

2. In four instances, staff program directors who only observed private attorney models operate had no comment about their attitude toward using private attorneys or on whether they favored continued funding for the model.

TABLE 16: STAFF ATTORNEY PROGRAM DIRECTORS' ATTITUDES TOWARD PRIVATE ATTORNEY MODELS*

A. MANAGERS OF PRIVATE ATTORNEY MODELS

DELIVERY MODEL	PROJECTS IN SURVEY	STAFF DIRECTORS INTERVIEWED	ATTITUDE TOWARD USING <u>PRIVATE ATTORNEYS</u>			FAVORED CONTINUED FUNDING OF MODEL	
			Favorable	Neutral	Unfavorable	-- Yes	No
Judicare, supplement	3	3	3	0	0		1
Contract	9	9	7	0	2	6	2
TOTAL	12	12	if	0	2	8	3

5. DIRECTORS OF PROGRAMS COOPERATING WITH PRIVATE ATTORNEY MODELS							
DELIVERY MODEL	PROJECTS IN SURVEY	STAFF DIRECTORS INTERVIEWED	ATTITUDE TOWARD USING <u>PRIVATE ATTORNEYS</u>			FAVORED CONTINUED FUNDING OF MODEL	
			Favorable	Neutral	Unfavorable	Yes	No
Judicare, pure	4	4	3	0	1	2	2
Judicare with staff attorney ccmpsonst	1	1	1	0	0	1	0
Judicare, supplement	1	1	0	1	0	1	0
Prepaid	3	3	0	1	2	1	2
Pro bow	6	6	5	1	0	4	2
Clinic	1	2e▶a	1		1	2	0
TOTAL	16	17	10	3	4	11	6

C. OBSERVERS OF PRIVATE ATTORNEY MODELS

DELIVERY MODEL	PROJECTS IN SURVEY	STAFF DIRECTORS INTERVIEWED	ATTITUDE TWARD USING <u>PRIVATE ATTORNEYS</u>			PAwRID cuNr uYUtu	
			Favorable	Neutral	Unfavorable	Yes	No
Judicare, pure	1	1	1	0	0	0	1
Judicare, staff	1	1	1	0	0	1	0
Prepaid	3	3	0	3	0	1	2
Pro bow	-	1***	1	0	0	0	1
Clinic	1	2+++	0	0	2	0	2
	c	a	7	3	2	2	6

* Two pure judicare projects and two judicare with staff attorney projects operated in areas having no other legal services program.

** One program director interviewed had no opinion.

*** Directors of two staff attorney programs operating in the service area of one clinic and one pro bow were interviewed.

accomplishing **impact work**, they believed that the supplements do free the staff program to do such work. Three staff program directors who manage contract models found this use of the private bar ideal for serving a rural area, where the staff program is frequently expected to serve a community that is geographically dispersed.

Unfavorable responses questioned the cost effectiveness of supplementing a staff program with private attorneys. Several directors believed that the money would be better spent on the core staff program. Others, however, favored the use of private attorneys and indicated that the problems they experienced with the approach resulted from faulty implementation.

IV. PERFORMANCE OF PRIVATE ATTORNEY MODELS

A. INTPODUCTION AND SU14ARY

The basic policy ~~question~~ the Delivery ~~Systems~~ Study was designed to answer was whether any private attorney models functioned well enough in terms of cost, quality, client satisfaction and impact, to meet the standard set by the staff attorney program. A private attorney model met the performance standard if all or most of its projects 12rtc~~wed as well as or better than the staff attorney program.~~¹

this report does not address the question of whether different models perform better than other models in specific ~~comam~~ity settings. That issue will be addressed in the research report to be completed later this year.

This chapter draws conclusions only on cost, quality, and impact, not on client satisfaction. The client satisfaction survey did not achieve a high enough response rate to allow any conclusions to be made. Table 17 summarizes the conclusions on the performnce of the private attorney models tested.

Two models funded as alternatives to the staff attorney program met that program's standards. They were: judicare with a staff attorney component and pro bono. One model funded as a supplement to the staff attorney program also met the standards. The supplement model was contracts with a law firm.

1. See Chapter II, pp. 16-21 for a more detailed description of the performance criteria used in the policy analyses.

TABLE 17: DID THE PRIVATE ATTORNEY MODELS MEET **THE PERFORMANCE STANDARDS SET BY THE STAFF ATTORNEY MODEL?***

PROJECTS FELL WITHIN **THE SAME RANGE AS STAFF ATTORNEY PROGRAM ON:**

DELIVERY MODEL	Cost of service?	Client satisfaction?	Quality of service?	Impact on poverty community?	
		No conclusions			
Pure Judicare	Yes	drawn***	Yes	No****	
Judicare with staff attorney component	Yes	l	Yes	Yes	
Judicare supplement to a staff attorney program	Yes	l	Yes	No****	
Contract with law firm	Yes	l	Yes	Yes	
Prepaid legal insurance	Yes	l	Yes	No****	
Voucher	Not tested	l -----	-----	-->	
Pro bono	Yes	l	Yes	Yes	
Legal clinic	Not tested**	V			
			l	l	

* A "Yes" indicates that all or **most of** the projects in a private bar model fell within the **same range** as the staff attorney programs in the study. See Chapter II, page 18 for discussion of the decision rule used in the policy analysis.

** Because only two legal clinics were funded, no conclusions are drawn on the performance criteria for this model.

*** No conclusions were drawn on the client satisfaction measure because of the low **response** rate of the client survey.

**** Pure judicare projects did some impact work, but the results were less than those achieved by the staff attorney program. Only one judicare supplement to a staff attorney program did any impact work. Prepaid projects did no impact work.

Three models -- pure judicare, judicare supplement to a staff attorney program and prepaid legal insurance -- met the cost and quality standards but failed on the impact standard. Because the staff of the parent organization in the judicare supplement model **can assume** responsibility for achieving impact results that affect the poverty community as a whole, the Corporation **does not** rule out that model for potential use by Corporation **grantees**.

No conclusions **were drawn about the performance** of the clinic and voucher model.

B. COST OF SERVICES

Costs of services in the private attorney models were compared with the costs in the staff attorney model to determine if their performance met the standard set by the staff attorney program. A private attorney model met the standard if: (1) most or all of the projects had average costs per case that were in the same range as or lower than the staff attorney program, and (2) high costs could not be associated with a model characteristic, such as the fee structure or administrative system.

No private bar model failed to meet the cost standard set by the staff attorney program. Because wider variation was found from project to project within the models than the average costs model to model, individual project or community characteristics may have had more effect on performance than the kind of delivery model used. Although some individual private attorney projects had costs that were quite high, the reasons varied from project to project and could not be attributed to the delivery model used.

Predictably, most pro bono projects had low average cost per case. No other private bar model was "low cost" in relation to the staff attorney model.

More detailed analysis of the cost data may identify important characteristics affecting cost of services to be considered in implementing a legal services program. One such characteristic in private attorney models is compensating attorneys below "usual and customary" rates. Private attorney projects were comparable to the staff attorney program costs because, with three exceptions, they operated with

reduced-fee schedules. In the private attorney projects using "usual and customary fees" attorneys' fees were unusually high. Other important factors which further analysis of the data may indicate affect costs are: mechanisms for controlling private attorneys' fees, salary levels of project staff, case mix, use of free or low-cost services and size of program operation.

1. METHODOLOGY USED IN THE POLICY ANALYSIS

The cost analysis used in the report included two features:

- average cost per case for each project was the measure used to compare performance, and
- the range of estimates available on average cost per case for each project was taken into account in this analysis.

a. ESTIMATING AVERAGE COST PER CASE FOR A PROJECT

The Corporation developed the Statistical Reporting System (SRS) to collect data from the Delivery Systems Study projects. The reporting system used comparable definitions of service units (including cases, case types and other legal services) and produced comparable data on some of the more important factors likely to affect unit cost (for example, legal problems and legal strategies used). The system also collected data on labor costs and other expenses using categories that were comparable across projects.

Two analytic approaches were used to estimate average cost per case: a "micro" approach and a "macro" approach.

In the micro approach, data on the cost of individual cases handled by each project were collected on the Statistical Reporting System and

aggregated to yield an estimate of average cost per case for all cases handled by the project. Two variations existed in the measurement of individual case costs:

- If a case was handled by a private attorney a form was completed at case closure by the attorney (or in some cases by the project) showing the dollars billed and the hours spent on the case.
- If a case was handled by a project staff member (i.e., in staff attorney programs or in private bar projects with a staff component), all staff time spent was recorded while work was being done on the case. In this variation there was no fee for service, so it was necessary to compute cost by multiplying the hours spent on the case by the hourly wage rate of the staff members who performed the work.

In each variation, the total cost of the case was the sum of the direct labor cost (attorney's fee or staff labor cost) and an appropriate share of the project's indirect (overhead) costs.¹

The macro method used aggregated data covering project operations as a whole. Two types of data were required:

- Total project expenditures on case work over a specified time period.
- Total number of cases completed by the project during the same time period.

Average cost per case was defined as the total case expenditures divided by the total number of cases, both measured over the same time period. Various available data sources (including the Statistical Reporting System) were used to determine project expenditures and

1. Data required to calculate indirect costs were obtained from project expense data in each project's monthly report. Staff time spent on overhead activities was obtained from daily time logs completed by each project staff member. The time logs divided staff time into major categories of activities (for example, administration and management, outreach, training, and travel). The time data were used in conjunction with hourly wage rate information to estimate total indirect labor costs.

numbers of cases completed, yielding not one but several independent macro cost estimates for each project. I

Macro estimates of cost greatly increase the information available for assessing the accuracy of estimates and expanding the Corporation's capacity to explain cost variations among projects. Alternative estimates define the range within which each project's actual cost per case fell. Efforts to resolve differences among estimates have narrowed the ranges of estimates. For example, comparison of the SRS data with other sources revealed that data on staff time spent on individual cases were of uneven quality in some projects. In staff programs, some project managers felt that detailed timekeeping on cases over an extended period had no management purpose comparable to the billing function that timekeeping serves in a private law firm, and prior to SRS most staff attorneys had no experience with timekeeping. Analysis of the data suggests that staff time was underreported for staff cases in some staff attorney programs and in some private bar projects that had a staff component.

The comparison also showed that some pro bono projects had difficulty collecting data from panel attorneys, who felt their pro bono service should not be burdened with "bureaucratic" recordkeeping. Some cases were not reported, and the full extent of services produced by pro bono projects is not measured by the SRS alone. Further data sources were used to estimate those services.

1. Data sources for project expenditures included monthly reports, audit reports, monthly activity reports to the Corporation, annual grant renewal applications, internal reports of projects and reports on Corporation monitoring visits. Data sources on numbers of cases closed included case data (aggregated); monthly activity reports; statistical and narrative reports submitted by projects with grant renewal applications; information gathered in connection with technical assistance given projects and internal reports of projects.

Complete, **accurate** information **was not** uniformly provided by all projects. The reasons varied from project to project.

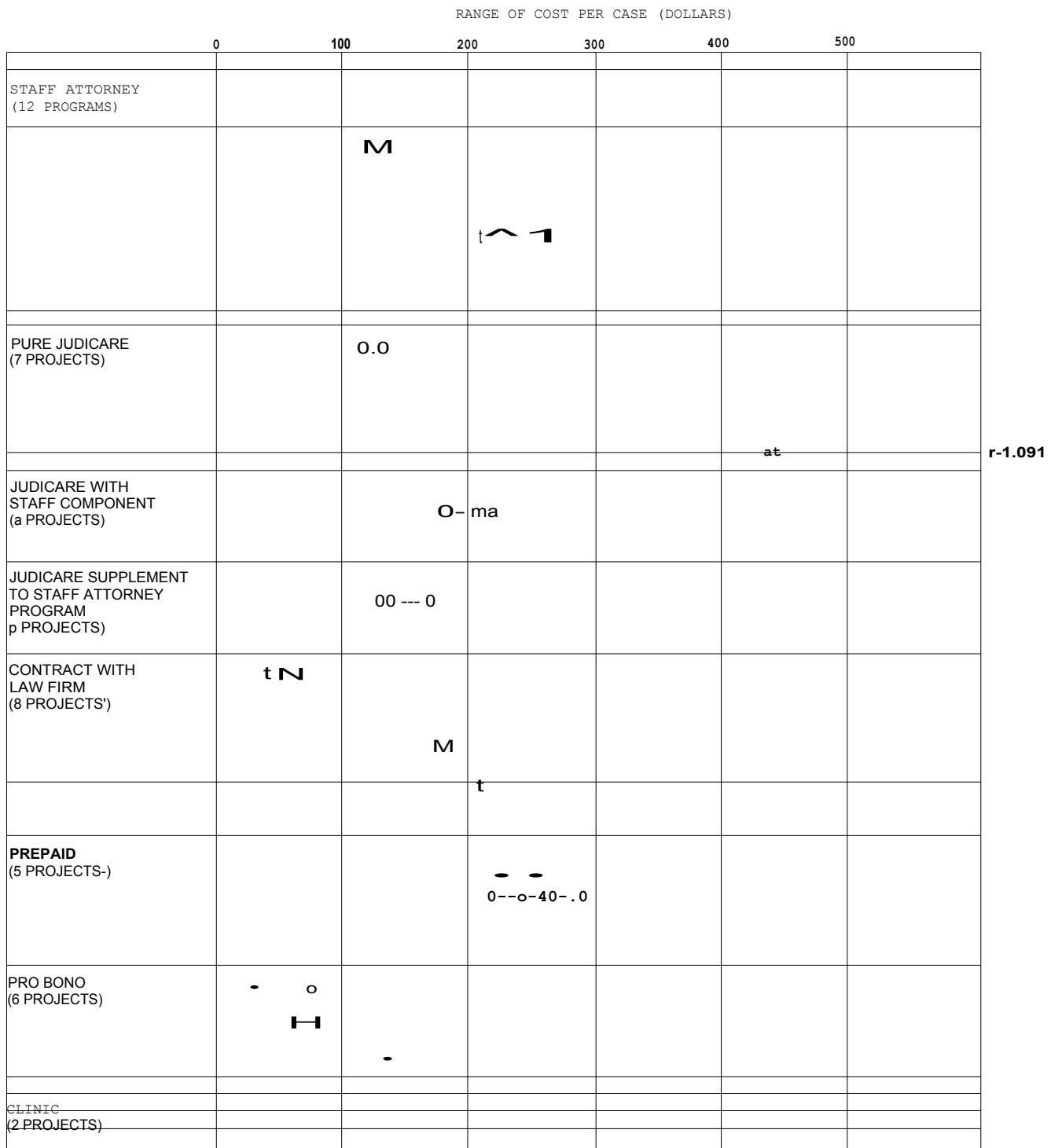
As discussed below, the cost methodology for the policy analysis is **based on examination of the entire range of cost estimates for each project**. Conclusions are drawn only to the extent that they apply to **the entire range of a project's true costs**.

b. METHOD FOR COMPARING COST RANGES

Figure 10 shows the cost ranges for the 12 **staff attorney programs** and the demonstration projects within each **private attorney model** tested. The figure **shows that the average cost per case of the staff attorney programs** varied widely. **Demonstration projects** within each **private attorney model show similar cost variations**. **Using different sources** to calculate **an average cost per case for each project produced estimates** that for **some projects were significantly** different. The cost **per case estimates for individual projects range from 2 to 40 percent above and below** the mid-point **estimate** for a project. This variation **is accounted** for in the **analysis that follows**.

The following **procedure was used to classify the projects for assessing the performance of the private attorney models**. The cost intervals of the staff attorney **programs -- the standard** of comparison -- was divided into three parts:

- **Low cost interval**. Cost per **case** falls **between \$0 and \$125**.
- **Medium cost interval**. Cost per **case** falls **between \$125 and \$350**.
- **High cost interval**. Cost per **case** is **above \$350**.



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FIGURE 10: RANGE OF AVERAGE COST PER CASE, BY MODEL

The intervals **were set to meet the** following criteria:

- The high cost interval was set at a point -- \$350 per case -- at which no staff program would be located if all estimates are taken into account.
- The low **cost** interval **was set** at a point -- \$125 per **case** -- at which no staff **program would** be located if **all estimates** are taken into account.

As shown in Figure 11, these intervals **can be used** to divide the study projects into five **groups**:

- "Low cost," **if all estimates for a project were \$125 or less.**
- "Low-medium cost," if some estimates for a project overlapped the low and medium cost intervals.
- "Medium cost," if all **average cost per case estimates for a** project fell into the \$125 to **\$350 range.**
- "**Medium-high cost,**" **if some estimates** for a project overlapped **the medium** and high **cost intervals.**
- "High cost," if all estimates for a project were above \$350 per case.

The purpose of this classification was to identify private attorney models whose projects consistently had high or low cost per case relative to the staff program and to take the full range of cost estimates for each project into account.

2. COMPARISON OF DELIVERY MODELS ON COST OF SERVICES

By classifying the projects **according** to the **cost categories** defined **above**, the models **can be compared on cost.** The results of the analysis **are shown** in Table 18.

- The 38 private attorney projects **taken as a** group show a distribution that is centered **in the same range as** the staff attorney **programs.** Twenty-two (58 percent) of the private attorney projects **are in the** medium cost

CATEGORIES OF PROJECT AVERAGE COST PER CASE

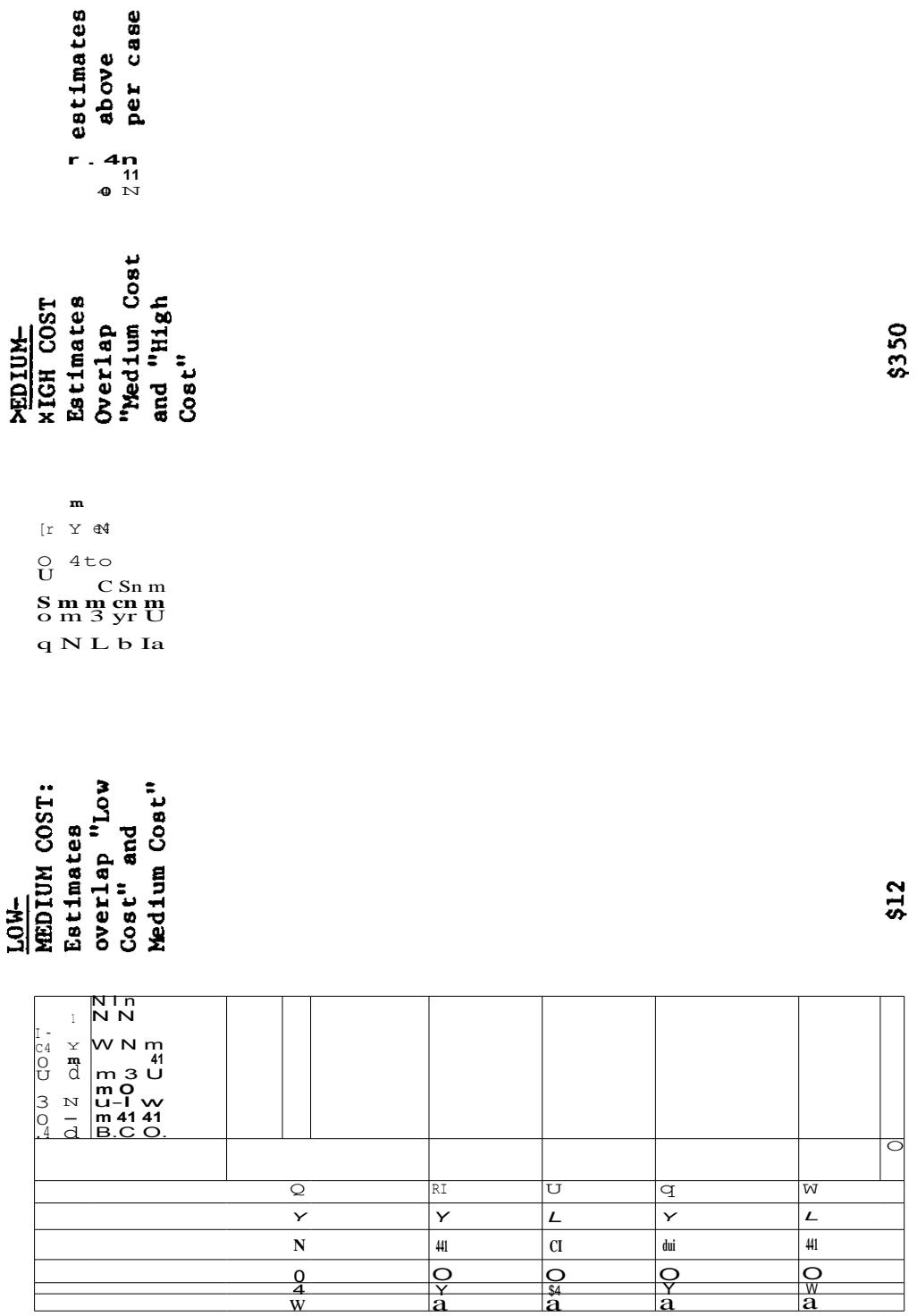


FIGURE 11: COST CATEGORIES USED TO CLASSIFY PROJECTS IN THE STUDY

interval; the remaining projects are quite evenly distributed at both ends **of the spectrum**. It is concluded that **the private attorney projects as a group are not greatly higher or lower in cost than the staff attorney model**.

- The distribution of the 38 private attorney projects **is broader than that of the 12 staff attorney programs**. **Four private attorney projects (10 percent) were low in cost; 1 none of the staff attorney programs was in this category.** **Three private attorney projects (8 percent), compared to none of the staff programs, were in the high cost interval.**
- The pro bono model had the highest **percentage** -- three out of six, or 50 percent -- of projects in the low cost interval. **None** of the pro bono projects fell in the high cost interval.
- No other private attorney **model** could be distinguished **as being either higher or lower in cost than** the staff attorney model; **therefore, all models tested met the cost per case standard** set by the **staff attorney program**.

The wide variation in overall **cost per case among projects in the** study is associated with model only in the **grossest terms**. For example, the pro bono model is low in cost **because attorneys donate their services to eligible clients**. Projects **funded under** all other models show wider cost variation within model **than across models**.

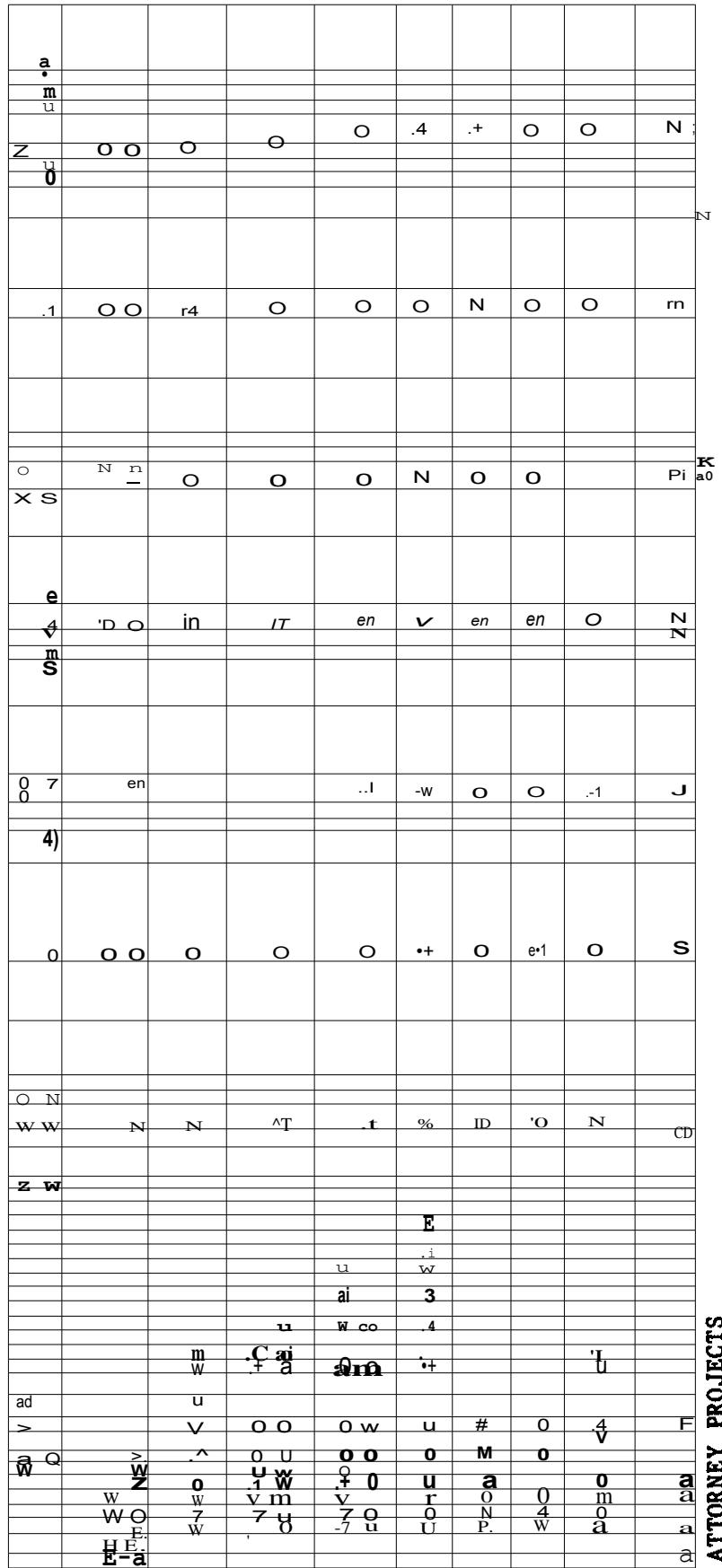
3. OTHER OBSERVATIONS ON COSTS OF SERVICES

While the **cost intervals** for all **models were judged acceptable** when compared to the staff program, the current research is identifying important cost-related characteristics of the projects that must be considered in funding and operating private attorney models. Further analysis of the data will produce information to design and implement cost-effective legal **services programs**.

1. Three of these projects were pro bono where no direct service costs are incurred. The other project **was a** contract in which all preparatory work for divorce **cases** was handled by the staff and the contract attorney merely represented the client in court.

CLASSIFICATION OF AVERAGE COST PER CASE FOR DELIVERY MODELS IN STUDY*

PROJECT DISTRIBUTIONS ON AVERAGE COST PER CASE CATEGORY



one prepaid project.
 one prepaid or one prepaid and because those two projects
 no conclusions about the clinic

Some of the major cost-related factors that must be considered in planning and implementing private attorney projects are: setting attorneys' fees at reduced levels, establishing mechanisms for controlling fees, setting salary levels for project staff, the mix of cases handled, the capability to attract donations, and the scale of operation. Preliminary observations on these issues are described below.

a. REDUCED FEES

Many of the private attorney models turned out to have costs comparable to the staff attorney model because they established attorneys' fees lower than "usual and customary" rates.

Projects that had hourly billing rates or fee schedules for particular types of cases had some control over the fees charged by attorneys, but the three projects that accepted bills for "usual and customary" fees had unusually high attorneys' fees. Two of the three were among the "high cost" (i.e., above \$350 per case) projects. Preliminary data suggest that panel attorneys often charge the maximum allowed by projects' fee schedules for particular types of cases. This implies that a project's fee schedule is a prominent factor in establishing attorneys' expectations and thus affects the project's average cost per case.

b. MECHANISMS FOR CONTROLLING FEES

Several projects developed ways to control attorneys' fees. At least two projects negotiated fees with attorneys either before authorizing work on a case or during the review process at case closure, putting attorneys on notice that fees would be closely watched. Some private attorney projects with staff attorney components retained cases

in-house if they appeared to be complex and could result in high fees if referred to a private **attorney**.

c. SALARY LEVELS FOR PROJECT STAFF

The direct **cost of cases** handles by project staff is affected by the salaries of staff **members**, their productivity **and the amount of time demanded by a case**. In addition, indirect **costs** (e.g., **administrative expenses**) are affected by the salaries of project staff **members** who administer the project. Salaries can be expected to be an important factor in both staff **attorney programs** and **private attorney models**.

d. MIX OF CASES

Some projects kept costs down by **referring some kinds of cases**, particularly **complex ones**, to neighboring legal services programs or parent staff attorney **programs**. Other projects handled high proportions of low-cost **cases for any of several reasons**, including: the nature of their client population (e.g., a project serving the elderly handled simple wills); **their mandate** (e.g., one contract project was established solely to handle divorce cases referred by the parent staff program); priorities **set by the** project that **ruled out particular types of expensive cases**; or policy that excluded the types **of cases that** could be costly (e.g., **class action cases**).

The **effect of case** mix on cost is of particular **interest to the** policy analysis **because** it concerns two policy **questions addressed in** the analysis:

- **Can the model address the legal services needs of the poor?**
- **Does the model** have acceptable costs?

Chapter III showed that the case **mix of some** models differed from the staff attorney **program case mix**. For example, in some cases the staff attorney **programs were found to do more income maintenance cases** than several private attorney **models**. An important question is: Would private attorney **models** have higher **or lower average cost per** case than the staff attorney **program if** they had handled **the same mix of cases**?

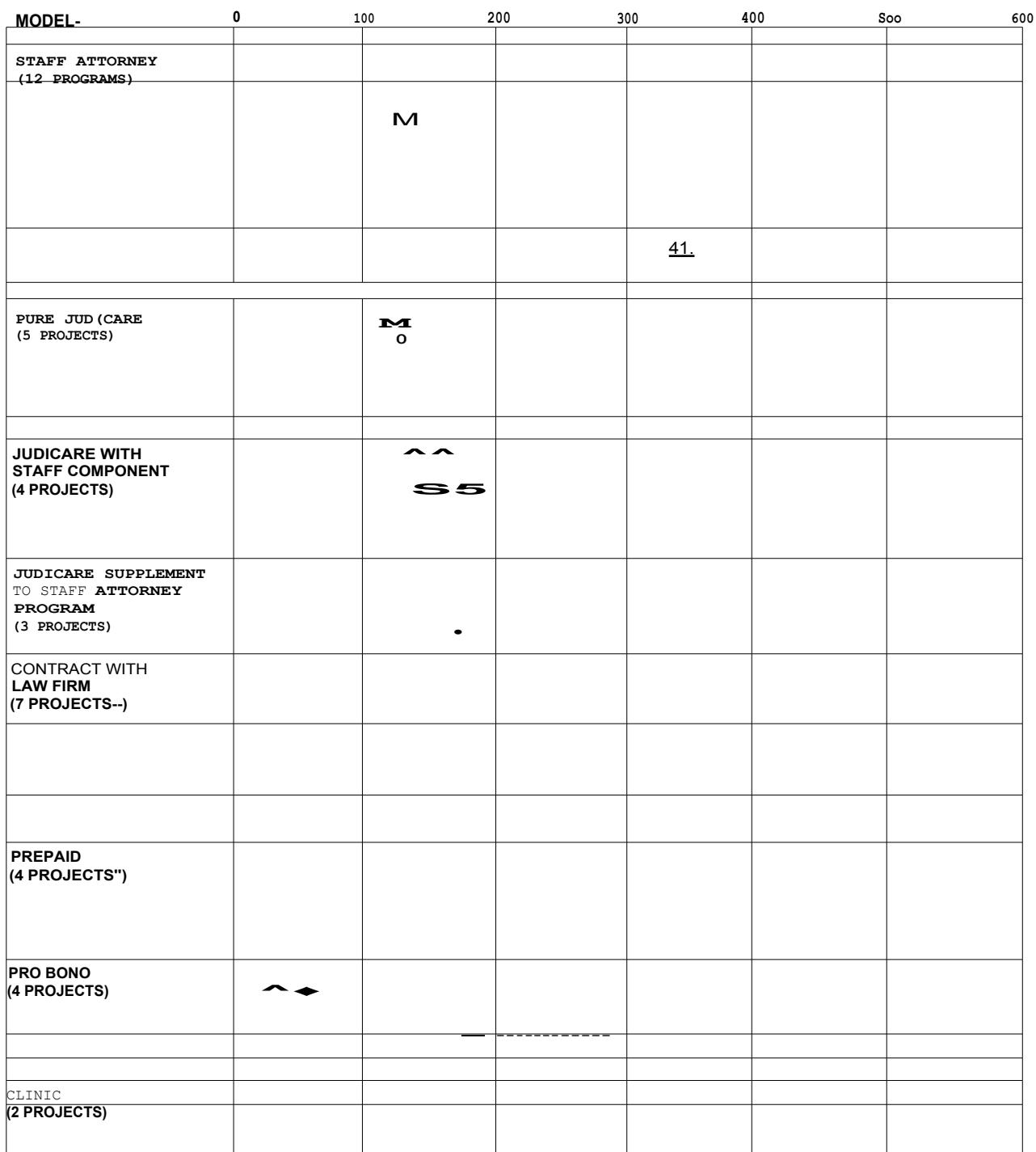
An analysis was done to compare private attorney models and the staff attorney program assuming they had the same mix of cases. Data on the average time charged to different types of cases in each project were used to adjust the overall **cost estimates** for the project to the **standard (staff attorney model) case mix**.¹ The resulting adjusted ranges are shown in Figure 12. They indicate that the cost ranges for individual projects **moved up or down as a result of this adjustment**, but did not change the overall conclusion that no private bar model tested failed to **meet the cost standard set by the staff attorney program**.

e. EXTENT OF AUQUIENTED RESOURCES

Not all of the costs of the demonstration projects' operations were supported by the demonstration project's budget. Pro bono projects are an obvious example of how costs may be reduced by using donated resources, in this case attorney time, to provide services. Some projects in the judicare supplement and contract models received the benefit of free office space, equipment, supplies and administrative staff support

1. Eight projects were not included in this analysis because they **were funded to provide limited representation either for certain types of legal problems or for specific groups of poor people, and were not expected to handle a mix of cases comparable to staff attorney programs**. They included two pure judicare, one judicare supplement, one prepaid, two contract and two pro bono projects.

RANGE OF ADJUSTED COST PER CASE (DOLJARSY)



-Denonssration projects with focused representation (i.e.. serving only elderly or handling only certain
me types such as divorce) are nor included.

.. No acceptable estimates available for l contract project and l prepaid project.

FIGURE 12: AVERAGE COST PER CASE , ADJUSTED FOR STANDARD (STAFF ATTORNEY) CASE MIX

provided by the parent staff attorney **program**. To some extent these are simply costs that were transferred to the organization or individual providing the resources. **But in some** circumstances demonstration projects used available equipment, **space**, or staff time provided by their parent organizations. This significantly reduced the administrative costs of the demonstration projects without adding greatly to the cost of **the parent organization**.

f. SCALE OF OPERATION

Monitoring visits and observational **data** indicate that some projects may have been funded at levels too low for peak efficiency with respect to use of administrative **staff and** other indirect resources. For example, monitoring visits **to some projects revealed** that the administrative staffing levels provided for in the **grant were excessive** in relation to funds available for direct services. Their staffs were not fully utilized, given the limited **size** of their caseload. Higher funding levels for direct service could have permitted caseloads to be increased in those projects without increasing administrative support, thus reducing **their average cost per case**.

C. CLIENT SATISFACTION

The private attorney models were compared with the staff attorney model in terms of client satisfaction to determine if the performance of the private attorney models met the standard set by the staff attorney program. A private attorney model would meet the standard on client satisfaction if its project scores fell in the **same range** as or above the staff program. Use of a private attorney model would be questionable if most or all of the clinet satisfaction **scores** were consistently lower than the staff programs in the study.

Methodological problems resulting from the low survey response rate (17 percent) prevent conclusions being drawn about differences in client satisfaction due to delivery model. Without more information about nonrespondents, the Corporation believes the client satisfaction results must not be extrapolated to the population of clients served by a model. The survey results should only be used to analyze opinions of a special subgroup of clients -- those willing to be interviewed in the survey that was conducted. The survey methodology and results are discussed in the remainder of this section; however, the reader is cautioned that generalizations should not be made to the total client population of the delivery models in the study.

1. METHODOLOGY

Client satisfaction was measured using a questionnaire administered to a sample of clients. The measure, the data collection process, and the representativeness of the sample are discussed below.

a. THE CLIENT SATISFACTION MEASURE

The client satisfaction survey was designed **to measure** a client's experience and satisfaction with services at several points in the service delivery process. Figure 13 identifies three steps in the delivery process:

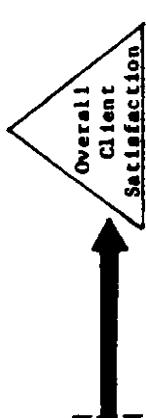
- **Application process**. **Consisting of intake, eligibility determination, and assignment to lawyer.**
- **Case activity**. **Lawyer (or paralegal) work and interaction with the client.**
- **Case outcome**. The results of the legal process and the effects on the client.

A client is involved in each step in the delivery process -- first by requesting service for a perceived problem, then by being affected by the **experiences with the program**. Figure 13 includes major survey questions related to each step in the process.

b. DATA COLLECTION PROCESS AND CLIENT RESPONSE RATE

The client **satisfaction data were** obtained **from a 30-minute interview of individual clients from the 38 private attorney projects and 12 staff programs in the study.** The interviews, conducted by a research contractor, **were mostly** by telephone. **A few were conducted in person.**

Severe client confidentiality restrictions **and the need** to protect attorney-client privilege required a complex procedure to select a sample of clients and obtain their cooperation. **To ensure** that the survey did not interfere with the attorney-client relationship, clients were not asked to participate until their **cases were completed**. Each of

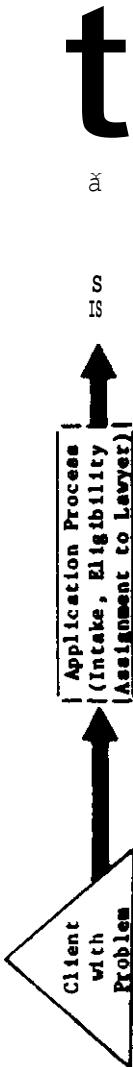


OVERALL SATISFACTION

I. Overall Satisfaction
(Considering everything we have talked about, how satisfied were you with the legal services you received?)

J. Return for Service:
If you needed legal help again, would you prefer to use the same person or would you prefer someone else?

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O	u	.. O i C C O Y . O O O . C O O
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P O Y Y O Y Y .. Y i C Y Y ..	
6. N	.. O I	V Y Y	.. P + C C L L / C . L L	
F	V	O	.. C i .. i i a N 0 0 Y u p u o w v	
V	..	i	..	
W	..	0	..	



SATISFACTION WITH CASE ACTIVITY

Legal Skill Shown
In General (were you satisfied or dissatisfied with the skill shown by the attorney in handling your case?)

CLIENT PERCEPTION PROBLEM DIFFICULTY

TRANSACTION WITH REGISTRATION PROCESS

Application: In general were you satisfied or dissatisfied with (the) entire application process?

Client Kept Informe
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Y~ u v x y o t
u CO T ..iii
r C 5 C O
r s o. w Y. 5 o 0
T o o re o 5 a' Y Y o i
V E O .. Y Y o i
Y W G U . . U

07

the 50 projects drew a sample of clients with a procedure developed by the contractor to ensure **representativeness**. The projects mailed information about the survey to the clients with instructions to send the enclosed postcard to the contractor if they wished to be interviewed. Twenty percent of the clients returned **postcards** and 84 percent of them **were** successfully interviewed making the **overall response rate** 17 percent (.84 x .20 a .17). (See Figure 14.)

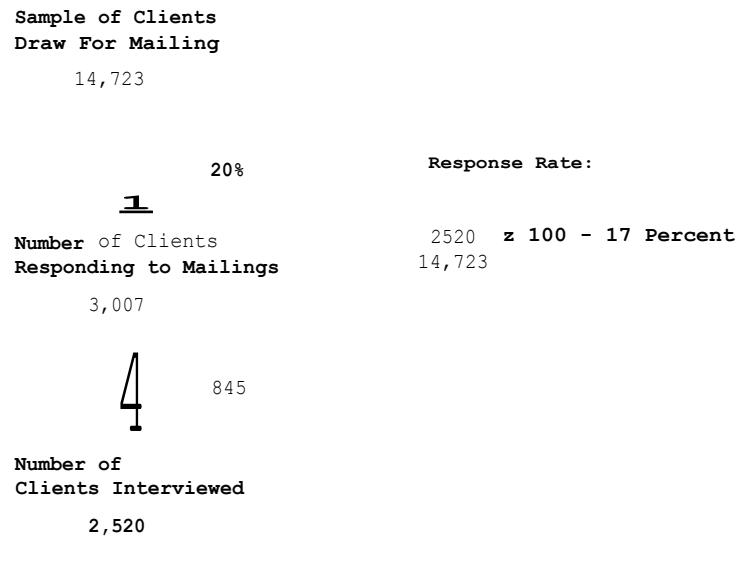


FIGURE 14: RESPONSE RATE FOR THE CLIENT SATISFACTION SURVEY

Following instructions provided by the contractor, projects selected a sample of 400 cases beginning with the ones most recently closed. The projects began with cases closed in January 1979 and went back as far as January 1978. If any projects had not closed 400 cases in that time period, they were instructed to select all closed cases. The number of clients selected for the sample ranged from 47 to 400 per project (see Table 19).

The projects sent two mailings within a two-week period to clients in the sample. When it was clear that the response rates were low, the Corporation, in cooperation with the National Client Council, arranged a third mailing for 10 projects representative of the 50. The purpose of the third mailing was to enable the contractor to determine whether there was any bias in the respondent group due to the low response rate.¹

The sample design called for the selection of an approximately equal number of clients from each project to produce nearly equal levels of statistical accuracy per project. However, because of the differences in response rates across projects and the low number of clients served in some projects, the actual number of clients interviewed per project (and therefore per model) varied substantially, as shown in Table 19.

C. IMPLICATIONS OF THE LOW RESPONSE RATE

The low response rate makes information about the representativeness of the respondent sample critical. The contractor examined the

1. In this third mailing, 2,350 clients were contacted and 339 (14 percent) responded.

CLIENTS SAMPLED, CLIENTS AGREEING TO BE INTERVIEWED AND CLIENTS INTERVIEWED

extent of bias resulting from the low response rate and concluded that the sample of respondents "does not give a seriously biased representation of the population of legal services clients." I

Three methods were used to estimate bias:

- (1) Comparing characteristics of clients in the client satisfaction sample with those of clients in the Statistical Reporting System sample. on the whole the differences were judged not to be large (less than 10 percent average differences on race, sex, age, and legal problem categories).
- (2) Comparing characteristics of those clients responding to the first mailing with characteristics of clients responding to subsequent mailings. The most notable finding was that late respondents were somewhat less satisfied than earlier respondents (80 percent "very satisfied" from the first mailing vs. 70 percent from the later mailings).
- (3) Assessing the degree of association between project response rate and protect client satisfaction score. No evidence was found that project satisfaction scores were associated with response rate.

The contractor concluded that the sample of respondents appears to represent the population of legal services clients. However, the Corporation does not believe that the results were definitive enough to warrant this conclusion. The data do suggest a possible relationship between client satisfaction and willingness to be interviewed (as discussed above under the second method of assessing bias). However, without more information on nonrespondents, the client satisfaction results must be used cautiously. Specifically, one should not extrapolate the variation in satisfaction scores of the respondents to the total client population for a model. With the available data, the

1. A Study of Client Satisfaction, **Westat Inc.**, draft contractor report, March 7, 1978.

models can only be compared in terms of their effects on the satisfaction of a special subgroup of clients -- those willing to be interviewed.

2. **COMPARISON OF PRIVATE ATTORNEY MODELS AND THE STAFF PROGRAM ON CLIENT SATISFACTION**

Analysis of the survey results indicated that respondents did not differ significantly by model type in their satisfaction with services. The analysis included the relationship of delivery model with the following satisfaction **measures**.

Overall satisfaction.

Based on questions dealing with client satisfaction with services and willingness to use the same legal professional again.

Case outcome satisfaction.

Based on an composite index developed from several questions describing client satisfaction with case outcome.

Process satisfaction.

Based on an index developed from **several questions** describing client satisfaction with interactions with the project.

Table 20 presents **the average** and variation of project scores on these **measures** of satisfaction for each delivery **model**. **It demonstrates** (1) that satisfaction **scores were** generally high among all models tested on all the **above measures**, and (2) that differences between model average scores were small compared to the range of project scores within the models. (An analysis of variance showed that there was no statistically significant difference among models on any of the three satisfaction measures.)

Because of the high percentage of clients who were "very satisfied overall" (more than 7: percent across all model types), the data were reviewed to determine whether any particular model had a high **percentage** of respondents expressing dissatisfaction with **services**. Projects were singled out with a high percentage of negative **responses** on questions addressing overall satisfaction (I and J shown in Figure 13). A high percentage of negative **responses** in a particular project would be evidence that something might be **wrong**. **Because some negative responses** can be expected from clients, two standards **were used**, **one reasonable** and one strict:

- **Reasonable**: **Projects with 25 percent or more of respondents expressing dissatisfaction.**
- **Strict**: **Projects with 15 percent or more of respondents expressing dissatisfaction.**

Table 21 shows **the results**. **Three out of 50 programs failed the 25 percent rule and seven of 50 programs failed the 15 percent rule.** No delivery **model had an unusual or unique pattern of negative responses.**

TABLE 21: NUMBER OF PROJECTS BY MODEL TYPE HAVING A HIGH PERCENT OF DISSATISFIED RESPONDENTS

	A. USING <u>REASONABLE</u> RULE: PROJECTS HAVING 25 PERCENT OR MORE DISSATISFIED RESPONDENTS	B. USING <u>STRICT</u> RULE: PROJECTS HAVING 15 PERCENT OR MORE DISSATISFIED RESPONDENTS*
DELIVERY MODEL		
STAFF ATTORNEY PROGRAMS	1 of 12 (8 percent)	1 of 12 (8 percent)
Pure judicare	1 of 7	2 of 7
Judicare with staff component	0 of 4	1 of 4
Judicare supplement to a staff attorney program	0 of 4	1 of 4
Contract with law firm	0 of 9	O of 9
Prepaid	0 of 6	O of 6
Pro bono	1 of 6	1 of 6
Legal clinic**	0 of 2	1 of 2
ALL PRIVATE ATTORNEY PROJECTS	of 38 (52 percent)	6 of 38 (13 percent)

*Column B includes those projects having 25 to 100 percent of respondents dissatisfied plus those projects in Column A with 15 to 25 percent of respondents dissatisfied.

**Because only two projects were funded under the clinic model and because those projects did not operate as the clinic model was defined, the Corporation does not draw any conclusions about the clinic model based on performance of the two projects funded.

D. QUALITY

The quality of services in the private private attorney models was compared to the staff attorney model to determine if the performance of the private attorney models met the standard set by the staff attorney program. A private attorney model met the standard if (1) most or all the projects in the model had average quality ratings in the same range **or higher than the staff program. Use of a private bar model would be** questionable if all or most of the projects (1) had overlap quality ratings that were higher than the staff attorney programs, or (2) if several projects showed extremely low quality.

Analysis of the data indicated that all **the private attorney models** tested **met the standard** set by the **staff attorney program.** 1 Statistical analysis did not indicate any significant differences in average project quality ratings among the delivery models. The weighted mean project score for all models varied between 2.78 and 2.97 on a scale of 1.0 to 5.0. **Analysis of ratings that were "below satisfactory" indicated that most projects in all models met the performance standard set by the staff attorney program. Some individual private attorney projects fell below this standard, but they were distributed across models, and no model had a large number of substandard projects.**

1. METHODOLOGY

a. QUALITY MEASUREMENT

Because of the absence of objective quality performance standards in the legal profession, quality of service **was measured** by teams of

1. No conclusions were reached on the clinic and voucher models.

attorneys assessing a sample of a project's cases after interviewing the attorneys responsible for the cases. The sample was drawn from each project's cases closed over a six-month period (approximately between September 1978 to March 1979).

Twenty-two attorneys meeting the following criteria were selected to be "peer reviewers."

- Currently practicing or teaching law, with experience in and knowledge of general legal practice.
- Familiarity with the goals and operations of the legal services program.
- Recognition and respect in the legal profession, and possession of the skills required of an objective interviewer.
- Familiarity with the kinds of cases legal services programs typically handle.

Two peer reviewers used a standard interview format when discussing the cases with the attorney in charge. The attorney being interviewed used the case file as a reference during the interview. However, to protect client confidentiality, the peer reviewers did not have access to the case file. After the interview, the peer reviewers assigned each case an overall rating, as well as ratings on 12 individual factors that could have affected the overall case rating. Each case was rated by two peer reviewers using the following standard:

In this case, the client's problems were assessed accurately and appropriate objectives and strategies were selected. The case was executed effectively: no serious errors were made, and sufficient attention was given to the client and case.

Cases that met this standard in the judgement of the peer reviewers were assigned a "satisfactory" ("3") rating. Cases that fell below the standard received an "unsatisfactory" ("1") or "less than satisfactory"

("2") rating. Cases that exceeded the standard were assigned a "more than satisfactory" ("4") or "outstanding" (5) rating.

The same five-point scale was used to assess the 12 factors that could have affected the overall case rating. The factors were:

- Knowledge of facts
- Knowledge of relevant law
- Communication with client during strategy formulation and selection
- Strategy formulation and selection
- Preparation for litigation
- Followup
- Use of factual investigation
- Use of legal research
- Formulation and selection of objectives
- Negotiating/bargaining
- Client role in decision making
- Resource utilization

The ratings on the factors were used to explain the differences found in the overall quality scores assigned to individual cases.

Guided by a sampling scheme designed to allow generalization to a project's caseload, the contractor first selected a sample of attorneys to be interviewed and a random sample of their cases. A total of 575 attorneys were interviewed in 48 projects producing more than 6,000 ratings on approximately 3,000 cases.

1. Three demonstration projects were not included in the quality assessments, two pure judicare projects because of major organizational problems that precluded adequate sampling of cases and one prepaid project because of the small sample of cases rated.

b. MEASURES USED TO COMPARE MODELS

The private attorney models were compared with the staff attorney model using two **measures**: average project **score**, and proportion of project ratings that **were below** "satisfactory."

To determine the average project scores, the following analysis was done:

- Individual **case ratings were weighted to account for the sampling method used.**
- The weighted **scores were used to estimate the average project rating.**'

The second measure -- proportion of below satisfactory case ratings -- was determined as follows.

- Individual **case ratings** in the **sample were** classified into three **categories**: "below satisfactory" (rated 1 or 2), "satisfactory" (rated 3), or "more than satisfactory" (rated 4 or 5).
- **Case ratings were weighted to account for the sampling method used.**
- **The proportion of the project's total cases that received below satisfactory ratings from both peer reviewers was estimated using weighted sample data.**

2. **COMPARISON OF PRIVATE ATTORNEY ?DELS AND THE THE STAFF ATTORNEY PROGRAM ON QUALITY OF SERVICE**

a. AVERAGE PROJECT SCORES

Table 22 shows the average project score and range of project scores for each delivery model. No significant differences in case

1. Project scores were found to be reliable, i.e., independent estimates of a project's score derived separately from two peer reviewers' case ratings were highly correlated. However, ratings on individual cases were found to be less reliable: approximately half of the pairs of peer reviewers showed disagreement on more than 25 percent of the **cases** the pairs rated in **common**.

TABLE 22: PROJECT RATINGS OF AVERAGE QUALITY OF SERVICE BY DELIVERY MODEL

<u>DELIVERY MODEL</u>	<u>AVERAGE PROJECT SCORE</u>	<u>MINIMUM PROJECT</u>	<u>MAXIMUM PROJECT</u>
Staff attorney	3.0	2.8	3.2
Pure judicare	2.9**	2.7	3.1
Judicare with staff	2.9	2.8	3.1
Judicare supplement to staff attorney program	3.0	2.9	3.0
Prepaid	3.0**	3.0	3.1
Contract with law firm	2.9	2.7	3.2
Pro bono	2.9	2.4	3.2
Legal clinic***	2.9	2.5	3.2

*The scale **used was**: 5 - Outstanding; 4 - More than satisfactory; 3 = Satisfactory; 2 - **Less** than satisfactory; 1 = Poor.

Three projects **were not included in the analysis: two pure judicare projects **that never became** fully operational **and one prepaid** project that had **so few cases analyzed**.

quality **were** found among the models in terms of average project scores.

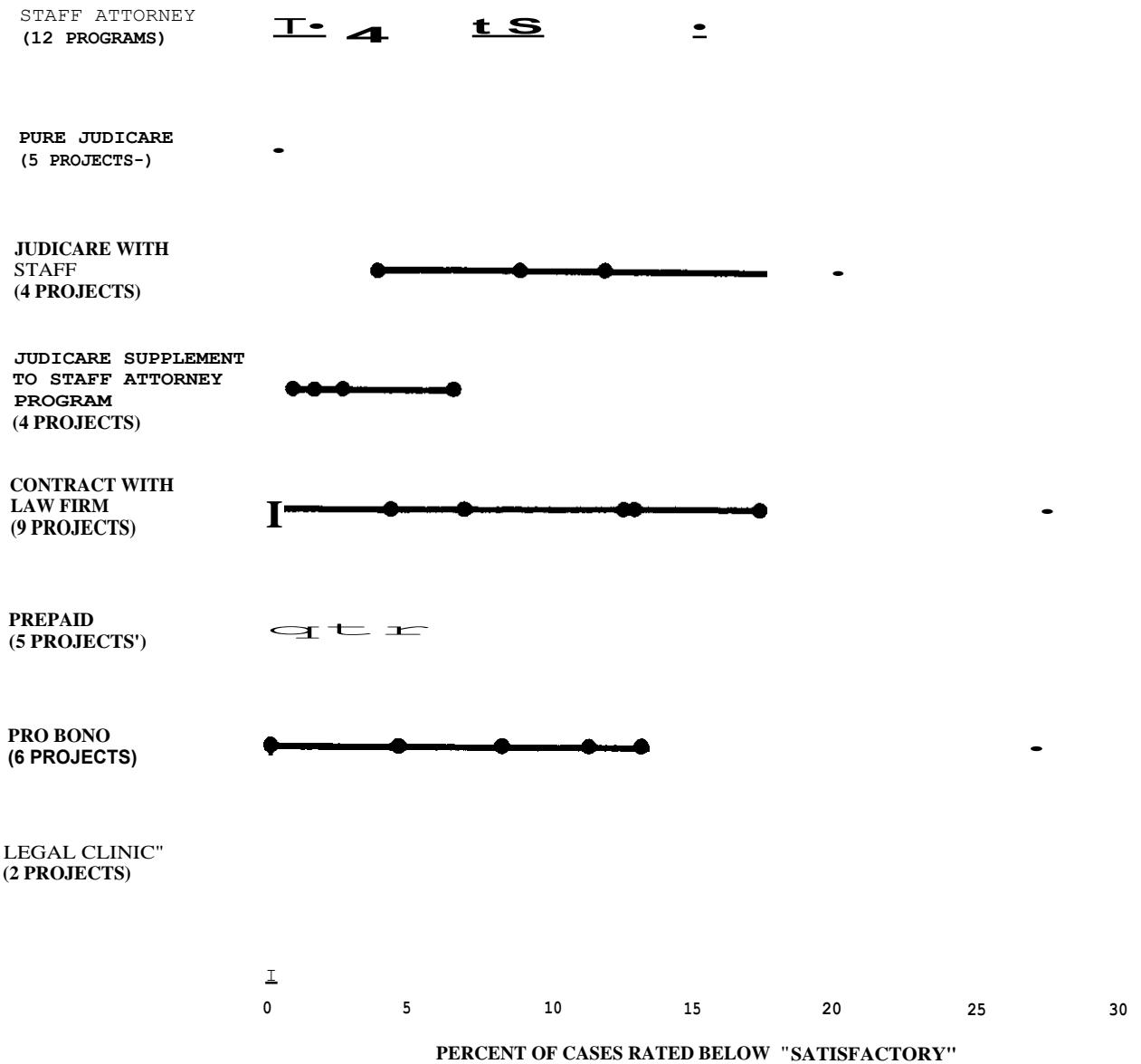
The project **averages for the private attorney models were** close to the **standard** set by the staff **attorney model**, and little variation **existed** in project **scores** within or **across the model types** (i.e., the lowest project score was 2.4 and the highest project score was 3.2).

b. **PROPORTION OF CASES RATED BELOW SATISFACTORY**

All of the **private attorney models met the standard set by the staff attorney program** on the proportion of cases rated below "satisfactory." Figure 15 shows the results of this measure for the staff attorney and the private attorney models. Most projects in each of the **private attorney models** fell within the **range of the staff attorney program**. The greatest proportion of cases in a single staff program rated below satisfactory **was 15 percent**.

Table 23 indicates how many projects in each private attorney model fell below this standard. While four models -- pure judicare, judicare with a staff component, contract and pro bono1 -- had individual projects below the standard, most of their projects were within the range of the staff attorney program. Therefore, these models met the standard on this performance criterion.

1. No conclusions were drawn about the legal clinic model based on performance of the two projects funded. only two projects were funded, and they did not function as the clinic model was defined.



*Three projects were not included in the analysis: two judicare projects that never became *fully* operationalized and one prepaid project that had too few cases rated.

"Because only two projects were funded under the clinic model and beaux they did not operate as the model was defined, no conclusions about clinics are drawn based on performance of these projects.

FIGURE I5: DISTRIBUTION OF STAFF ATTORNEY PROGRAMS AND PRIVATE ATTORNEY PROJECTS BY PERCENT OF CASES RATED BELOW 'SATISFACTORY'

TABLE 23: PROJECTS WITH MORE THAN 15 PERCENT OF CASES
IN SAMPLE RATED BELOW "SATISFACTORY"

DELIVERY MODEL	NUMBER OF PROJECTS HAVING MORE THAN 15 PERCENT OF CASES RATED BELOW "SATISFACTORY"
STAFF ATTORNEY PROGRAMS	0 of 12 (0 percent)
Pure judicare	1 of 5*
Judicare with staff component	1 of 4
Judicare supplement to a staff attorney program	0 of 4
Contract with law firm	2 of 9
Prepaid	0 of 5*
Pro bono	1 of 6
Legal clinic**	1 of 2
ALL PRIVATE ATTORNEY PROJECTS	6 of 35* (17 percent)

* Three projects were not included in the analysis: two pure judicare projects never became fully operational, and one prepaid project had too few cases rated to include in the analysis.

** Because only two projects were funded under the clinic model and because those projects did not operate as the model was defined, the Corporation did not draw conclusions about the clinic model based on performance of these two projects.

Table 24 shows the distribution by model of **case** ratings across all three categories -- below, at and above the "satisfactory" level. Inspection of the **ranges** within each model confirms the conclusion reached previously: all models performed in the **same range as the staff attorney** -- "tgh differences in the **model averages** appeared, they **were** small comy,. ed to the variations in project performance within each model.

3. OTHER OBERVATIONS ON QUALITY OF SERVICE

The data in Figure 15, Table 23, and Table **24 have important implications for planning and implementing private attorney programs.** While all **models tested met** the quality **standard set by the staff attorney program**, several individual **private attorney projects did not meet** the standard on one quality criterion -- **proportion** of ratings below "satisfactory." Further analysis **of the study** data is currently **in progress to examine relationships between quality performance and project characteristics -- such as mix of cases handled, type of attorney responsible for the case, location of program -- to assist in local program design and implementation.**

Preliminary **results of** the analysis **of the relationship between quality and case mix**, and of the relationship **between** quality and type of attorney (salaried **staff or private**) handling **a case indicates that the mix of cases handled** by the delivery **model** or the type of attorney handling **the case are not major factors affecting scores on** quality of services.

TABLE 24: DISTRIBUTION OF CASES RATED BELOW "SATISFACTORY," "SATISFACTORY," AND MORE THAN "SATISFACTORY" BY DELIVERY MODEL

PERCENT OF PROJECT CASES THAT WERE RATED:						
DELIVERY MODEL	BELOW "SATISFACTORY"		"SATISFACTORY"		MORE THAN "SATISFACTORY"	
	Project	Project	Project	Project	Project	Project
	Average	Range	Average	Range	Average	Range
Staff attorney (12 programs)	4.9	15.6	91.9	100.0	3.2	11.6
Pure judicare (5 projects*)	7.8	15.8	90.3	94.6	1.9	5.4
Judicare with staff (4 projects)	11.0	20.0	84.8	92.3	4.2	7.2
Judicare supplement to staff attorney program (4 projects)		0.8-		93.7-		0.0-
Prepaid (5 projects)	3.1	5.4	%.3	97.5	1.0	2.4
Contract with law firm (9 projects)	9.0	27.3	85.7	%.5	5.4	18.5
Pro bona (6 projects)	10.7	27.0	84.0	94.5	5.4	14.1
Legal clinic** (2 projects)	9.5	19.0	88.7	96.3	1.9	3.7

*Three projects are not included in the analysis: two judicare projects that never become fully operational and one prepaid project with too **few cases** analyzed.

Because only two projects were funded under the clinic model and because those projects did not operate as the model was defined, no conclusions **were drawn about the clinic model **based on performance** on these two projects.

a. QUALITY AND CASE MIX

One important characteristic of projects is the **case mix** they handle. Since some private attorney **models** differ significantly from the staff attorney **program in case mix (as shown in Chapter III)**, any variations found in quality on specific types of **cases could have implications for designing and implementing private attorney models**.

The data in **Table 22 comparing delivery models on average project scores were based on the mix of cases** the individual **projects chose to handle**. Two additional **analyses of average project scores were done to determine if case mix affected quality ratings**:

- **A comparison of models using average project scores adjusted to account for project variation in case mix.**
- **Average model ratings for specific types of cases.**

To determine whether the average project scores for each model are a result of project case mixes, statistical adjustments of individual project case mixes were made to eliminate effects due to variation in case mix. The results **were the same** as before: no statistically significant **difference in average project scores was found among delivery models after their case mixes were adjusted**.

Analysis to determine if models varied significantly in quality ratings for particular types of cases (for example, income maintenance, divorce) also was done. Again, this analysis revealed no evidence of

1. **A statistical technique known as analysis of covariance was used. In this technique, models were compared using project scores statistically adjusted for any differences in case mix on particular case types. The case types requiring adjustments were those shown in the preliminary analysis (a) to be correlated with average project scores on quality, and (b) to differ significantly in case mix from model to model.**

important differences in quality ratings on specific case types due to delivery model. Individual ratings on approximately 3,000 cases in the sample were analyzed by legal problem and by delivery model.¹ Table 25 indicates that ratings on a few case types differed by model type; however, these differences were not large enough or frequent enough to explain a significant amount of the variation in case quality ratings. In addition, the differences found appeared to result by chance rather than from the model used.²

b. QUALITY AND TYPE OF ATTORNEY

Another important question was whether any differences were observed in the quality of cases handled by attorneys in private practice and staff attorneys (in both demonstration projects and staff attorney programs). To answer this question, quality ratings on cases handled by staff attorneys and private attorneys were analyzed. Table 26 shows that no important difference was found in quality ratings assigned to cases handled by these two categories of attorneys.

1. Multiple linear regression was performed using delivery model and case type as independent variables and overall project quality rating as the dependent variable.

2. In an analysis involving many combinations (of models and case types), it is common that a few combinations will appear significant just by chance alone. A followup analysis, with the total sample of case ratings split randomly in half, produced different results on the two halves, indicating that the interaction of model and case type did not affect overall quality of service in a consistent way using the data collected in the study.

0 QUALITY RATINGS FOR MAJOR CASE TYPES (AVERAGE PROJECT SCORES BY DELIVERY MODEL)

AVERAGE QUALITY RATINGS ON INDIVIDUAL CASES, BY CASE TYPE

DELIVERY MODEL

Staff Attorney

Pure Indica

		I				
41						
a	w	oo	u			
O.w	O	oo	u			
w	mu	6				
m w	W	T				
I N	w o	m				
M m	m u	c	M - I	z	O	..
			VW	m	A	.a
V L	V u	o				
V u	O C	u	c 3		W	oo
7 -	7 W	m	O oo	s.	o	uu
			L)	96	A	ii

TABLE 26: AVERAGE QUALITY RATINGS ON CASES BY TYPE OF ATTORNEY
HANDLING CASE

<u>TYPE OF ATTORNEY</u>	<u>NUMBER OF RATINGS</u>	<u>AVERAGE QUALITY RATING *</u>
Salaried attorney (in either demonstration projects or staff attorney programs)	2850	2.97
Attorney in private practice	3310	2.93

*Attorney type accounted for only one percent of the variation in case quality ratings.

E. IMPACT ON THE POVERTY COMMUNITY

The private attorney ~~models were compared~~ with the staff ~~program~~ to determine if their ~~impact results met the standard~~ set by the staff attorney ~~program~~. The term ~~impact~~ on the poverty ~~community refers to~~ results of those legal activities/ ~~strategies~~ that are likely to lead to ~~improvement~~ or avoidance of deterioration in the rights and living ~~conditions of significant segments of the poor population~~.

A private attorney model met the impact standard if most or all of its project ~~impact scores were in the same range as, or~~ higher than, the staff ~~attorney program scores~~. A model did ~~not meet the impact~~ standard if: (1) no projects ~~reported impact work~~, (2) few projects ~~reported impact work and had low scores compared to the~~ staff attorney ~~program or~~ (3) ~~most projects reported impact work but project scores~~ fell below ~~the range of the staff program~~.

Analysis of the ~~impact data indicated that three~~ delivery models ~~met the standard set by the staff attorney program. They were~~ judicare with staff attorney ~~component, contracts with law firms, and pro bono~~. Three private ~~bar~~ models did not meet the performance standard on ~~impact~~. The models were: ~~pure~~ judicare, judicare ~~supplement to a~~ staff ~~attorney program, and prepaid~~. No conclusions ~~were drawn about~~ the performance of the legal clinic and ~~voucher~~ models.-

1. No performance data were collected on the ~~voucher~~ model because it operated for less than a year. Only two legal clinics were funded, and they did not follow the model specification; therefore, no conclusions were reached about that model based on the results of two projects.

Only two of the seven pure judicare projects reported any impact work and the impact scores for those two projects were very low compared to the staff attorney program. Only one of three judicare supplements to a staff attorney program reported any impact work) Though that project received scores within the range of the staff attorney programs, there is not adequate evidence that the model is capable of producing significant impact work. None of the six prepaid projects reported any impact work, and because of the way prepaid legal insurance presently functions it appears unlikely that this model could produce significant impact results.

1. METHODOLOGY

Providing legal assistance to poor people in a particular community involves dimensions beyond considerations of cost, quality and client satisfaction. Congress recognized the need to provide legal assistance to "assist in improving opportunities for low-income persons" in its Declaration of Findings and Purposes of the Legal Services Corporation Act. Improving opportunities for low-income persons involves legal assistance activities that affect the basic legal rights and the critical needs (health, income, shelter and employment) of large numbers of poor people, that change their lives in a lasting way, and that improve their basic living and working conditions. Such legal assistance activities traditionally have not been measured by cost or

1. Four judicare supplement projects were funded; however, one was not included in the impact analysis because it was funded to provide only limited services and, therefore, was not expected to do any impact work.

efficiency (although efficiency **has been a** byproduct of **impact efforts**), nor do they have any clearly established **relationship** to client satisfaction. Quality **encompasses** slightly **different notions of lawyering** skills, appropriate **approaches and satisfactory results**.

For purposes of this **study**, the Corporation developed a measure of "impact" defined as achievement, or expected achievement, of relatively permanent improvement or avoidance of relatively permanent deterioration in the legal rights or basic living conditions of significant segments of the eligible population. This measure looked at activities that are likely to produce impact, such as major litigation, legislative and administrative representation; group representation; community education; and work with the organized bar, the judiciary and administrative systems to further the interests of poor people. It also looked at results that directly affect legal rights and basic living conditions such as housing, income, food, employment, education, health, family relations, consumer affairs, transportation and public safety. The measure examined not only the amount of impact work but its result on the client population.

The impact methodology consisted of five elements:

- Identification of all activities in each study project that comprise "impact work," according to the definition above.
- Collection by 18 "impact interviewers" of data concerning each unit of impact work, through semi-structured interviews with the persons connected with the project who were most familiar with the work. The interviewers were attorneys experienced in legal services impact work and were trained to do the interviewing.

- Preparation, by the interviewers, of "Impact Reports" that summarized key information in a standardized format.
- Rating by a panel of 11 "judges," with recognized expertise in impact work. Based upon an examination of the impact reports, the judges assigned ratings to each unit of impact work based on the results achieved in relation to the client problems addressed.
- Analysis of the impact ratings to determine the extent to which impact varied across models and to what extent other factors may affect impact.

The unit of observation for this study was "impact work," and the measure for the study was the extent to which the work achieved impact as defined above.

The definition of impact work contains several important concepts:

1. Project work. The study focused on the activities of the study projects, distinguishing them from the work of a parent organization or from that of any other groups or organizations in the community.
2. Achievement or expectation of achievement. The study looked at ongoing as well as completed activities, and assessed expected results as well as achieved results.
3. Relative permanence. The definition placed greater importance on results having lasting effects than those having temporary effects.
4. Improvement of legal rights or basic living conditions. The definition placed importance on direct results that affect legal rights and basic living conditions -- including, but not limited to, housing, income, employment, education, health, family relations, consumer affairs, transportation, and public safety and others. Several difficult judgments are implied in this part of the impact definition. The impact judges determined which type of results had greater impact.
5. Improvement of avoidance of deterioration. The definition captured impact work aimed at preventing detrimental changes for clients as well as achieving positive benefits.
6. Significant segments of the eligible population. The definition emphasized the results of work that affected more than one person (although such results often arose out of individual clients' cases).

The study projects **were** asked to identify all of their activities that comprised impact work, as defined, and started **after** January 1, 1978, or were **pending when** the impact **data** collection took place. Projects identified **diverse kinds** of activities, including legislative advocacy, class action litigation, administrative rulemaking **and prevent-** tive education, **as "impact work".** **The interviewers**, who were attorneys **experienced** in legal **services impact work and were trained** for impact interviewing, then collected **data on each unit of impact work that had** been identified by the projects. **The attorneys used semi-structured** interviews to gather information **from the persons connected** with the project **who were most** familiar with the work, **then prepared** "impact reports" that **summarized information about each impact work unit in a** **standardized format.**

A panel **of 11 "judges," attorneys with recognized** expertise in impact work, then rated the **impact reports.** **An impact report, selected** **as a standard against which to measure all impact work units, was** assigned a value of 100 points. The impact judges used that report as **a standard against** which **other impact reports were compared.** No maximum was established for scores that could be assigned. A zero score indicated **no impact was achieved;** a negative score meant that the project work **had a negative effect on the** client community. The judges **reviewed** the impact reports **and assigned scores** based on the results achieved in relation to the **client problems addressed.**

The judges **rated a total** of 395 impact **reports**,¹ each judge rating **six sets of 25 impact reports randomly assembled from across**

1. A total of 523 impact **work units were reported** by study projects. **Because of** budget limitations, projects reporting **more than** 30 impact work units **had samples drawn to be used** in the analysis.

the projects. Each set was reviewed by three or four judges and 27 of the reports **were** reviewed by all 11 judges to test the reliability of the scores and to provide **a means** of adjusting the scores for differences of the judges' rating behavior.

Three adjustments **were made** in the initial **scores assigned to each** impact report. First, each judge determined the proportion of the results due to project efforts. Second, each **judge assessed** the likelihood that the results would be or **were achieved**. An overall **score was** assigned by the judges for each impact report by multiplying the sub-scores for each report.' Third, the individual **impact scores were** adjusted to include only the proportion of work that **was done between** January 1978 and December 1979 because **some** impact work **began before** January 1978 before many **of the demonstration** projects **were founded**.

To develop project scores individual impact scores **were added**. In projects reporting more than 30 impact work efforts, 30 work units **were** selected to be analyzed; **scores for** these projects were computed by statistically weighting the sampled cases.

1. Based on the impact reports reviewed by all 11 judges, the reliability of the final impact score **assigned** by the team **of judges** was 0.79. A high level **of agreement was found among teams** of three or four judges on each of three subscores and the overall score on the individual units. Because the project score was derived by summing the individual impact scores, the reliability of the project scores is expected to be higher.

2. COMPARISON OF PRIVATE ATTORNEY AND STAFF ATTORNEY MODELS ON IMPACT RESULTS

a. MODELS REPORTING IMPACT WORK

Since projects could aggregate their reported impact work in different ways, information about the number of impact units reported is useful only to describe how the projects organized and reported their impact work. **For example, some projects reported as one impact work unit all efforts related to tenants' rights issues**, while others reported similar **work as separate** work units.

Table 27 shows the number of projects reporting impact work units by model. **Except for** prepaid, at **least one** project in all models tested reported impact work.¹ All projects in the judicare with staff, pro bono and staff attorney models reported some impact work.

b. PROJECT IMPACT SCORES

There was wide variation in the total **impact scores achieved by** projects, both **across models** and within **model types**. **The staff attorney model had the largest average project score** (2597), with individual staff attorney **program scores ranging** from 163 to 10,350. Of the private bar **models reporting some impact work, the pro bono model had** the highest **average project score** (933), with individual project scores ranging **from** 3 to 2,537. **Pure judicare had the lowest average project score (20) of the models reporting some impact work**, with individual project **scores ranging from zero to 86**.

1. Prepaid by its own design did not do any work that fit the impact classification.

TABLE 27: PROJECTS REPORTING IMPACT WORK BY DELIVERY MODEL

DELIVERY MODEL	NUMBER OF PROJECTS IN ANALYSIS	PROJECTS REPORTING IMPACT WORK
Staff attorney	11*	11 of 11*
Pure judicare	7	2 of 7
Judicare with staff	4	4 of 4
Judicare supplement to a staff attorney program	3*	1 of 3
Contract with law firm	7*	6 of 7
Prepaid	6	0 of 6
Pro bono	6	6 of 6
Legal clinic**	2	1 of 2

* Four projects were not included in the impact analyses: One judicare supplement to a staff attorney program, two contract projects funded to provide special services and one staff attorney program.

** Because only two projects were funded under the clinic model and because they did not operate as the model was defined, no conclusions **were** drawn about clinics based on performance of two projects.

c. PROJECT SCORES ADJUSTED FOR PROJECT SIZE

The project **scores measure the total results of projects' impact work over the study period. However, these unadjusted scores are not useful for comparing project or model performance, because of the differences in size of study projects (and therefore their capacity to do impact work).** For example, project budgets ranged from \$32,500 to \$2.7 million per year. To compare the performance of the models tested, the total impact score of each project was adjusted to account for variations in projects' capacity to do impact work. The total impact score per \$10,000 of project budget was used as an indicator of project impact score in relation to the project's capacity.¹ Figure 16 shows the results of this analysis in terms of the impact score per \$10,000 measure.

Wide variation was found both within and across models. For example, the staff attorney scores ranged from a low of one to a high of 113; contract project scores ranged from zero to 21.

The ranges of three models -- pro bono, judicare with staff, and contracts -- were well within the range of the staff attorney program. In addition, most or all of the projects in these models did some impact work, as reported previously in Table 27.

1. An analysis was done using a second indicator of impact performance: total impact score per 1,000 hours per year spent on legal work by attorneys and paralegals associated with the project. This analysis was inconclusive because of uncertainty in the data used to adjust impact scores for attorney and paralegal hours. As mentioned earlier in this chapter in relation to the cost analysis, some projects underreported their time spent on legal work. This underreporting had the effect of inflating the impact score per 1,000 hours; this was a particularly significant source of variation in pro bono projects, several of which had difficulty collecting information from panel attorneys on the cases they handled and the time they spent. Therefore, the impact score per 1,000 hours measure was not reliable enough to complete the analysis.

STAFF ATTORNEY
(12 PROGRAMS)

PURE JUDICARE
(7 PROJECTS¹)

JUDICARE WITH
STAFF
(4 PROJECTS)

JUDICARE SUPPLEMENT
TO STAFF ATTORNEY
PROGRAM
(4 PROJECTS)

CONTRACT WITH
LAW FIRM
(9 PROJECTS)

P

O-O-O

PREPAID
(5 PROJECTS¹)

████████

PRO BONO
(6 PROJECTS)

●●●

LEGAL CLINIC²
(2 PROJECTS)

II —



¹Four were not included in the impact analysis: one judicue supplement and two contract projects funded to provide special services were excluded; no data *were* collected from one of the 12 staff attorney Programs.

²Because only two projects were funded under the clinic model and beanie they did not operate as the model was defined, no conclusions about clinics are drawn based on performance of these projects.

FIGURE 16: PROJECT IMPACT SCORES AND WORK UNITS BY MODEL TYPE

Three models -- pure judicare, judicare supplement to a staff attorney program and prepaid -- had low scores relative to the staff program. The highest score of the pure judicare projects (1.6) was only slightly above the lowest score of staff programs (1). This together with the fact that only two of seven programs did any impact work renders the performance of this model questionable. The judicare supplement model had only one project that did impact work and achieved a score in the range of staff attorney programs. There is not adequate evidence that this model will produce impact scores comparable to the staff attorney program. All prepaid projects had scores of zero because they did not do impact work.

3. OTHER OBSERVATIONS ON IMPACT RESULTS

Since impact work is one of the distinguishing characteristics of the legal services program, the model and project characteristics that enable such work to be done is a major focus of the research. Preliminary analyses to determine the type of attorneys doing the impact work have been conducted. The results indicate that staff attorneys in private attorney projects played a major role in achieving impact results. This finding will be explored more thoroughly as a potentially important design consideration in designing programs using attorneys in private practice.

The question addressed was what proportion of impact scores was attributable to work done by (a) attorneys in private practice, (b) staff attorneys or (c) a combination of both types of attorneys. These proportions were computed by analyzing the impact scores assigned to work units handled by each category of attorney.

Table 28 shows the results by model type. All of the impact work in the staff attorney programs was by definition done by staff attorneys. In the closed panel private attorney model -- contract -- 81 percent of the average project impact score went to panel attorneys' work; the remainder was the result of staff work of the parent staff attorney program.¹

Sixty-nine percent of the average pro bono project scores were attributable to work done wholly or partially by staff attorneys -- 36 percent was achieved exclusively by staff and an additional 33 percent resulted from work of staff attorneys in conjunction with private attorneys. Twelve percent of the scores were credited to work done exclusively by attorneys in private practice. Forty-four percent of the average project scores in the judicare with staff projects was attributable to wholly or in part to project staff -- 35 percent to staff alone and 9 percent to a combination of private attorneys and staff. Thirty-five percent of the judicare with staff scores was the result of private attorneys working alone.

The number of cases was too small in the pure judicare and Judicare supplement projects to allow a meaningful breakdown by type of attorney. As indicated earlier, none of the prepaid projects did any impact work.

More about the effects of these and other model and project characteristics on performance will be revealed by the research effort

1. Some impact work units could not be identified by type of attorney because of ambiguous or missing data. These are identified in Table 28 as "Other" or "Not Classified".

TABLE 28: PROPORTION OF IMPACT SCORES ATTRIBUTED TO EFFORTS OF STAFF ATTORNEYS AND ATTORNEYS IN PRIVATE PRACTICE

DELIVERY MODEL	PERCENT OF PROJECT IMPACT SCORE BY TYPE OF ATTORNEY DOING WORK				
	z Private attorneys	Staff attorneys	Shared by private and staff attorneys	z Other	x Not Classified
Staff attorney		100			
Pure judicare	**	**	**	**	**
Judicare with staff component	35	35	9	3	17
Judicare supplement to staff attorney program	**	**	**	**	**
Contract with law firm	81	9	2	17	7
Prepa id	No impact work was undertaken				
Pro bono	12	36	33	2	16
Legal clinic	0	79	0	21	0

* Because only two projects were funded under the clinic model and because they did not operate as the model was defined, no conclusions were drawn about the clinic model based on performance of these two projects.

**The number of impact work units reported for each category of attorney was too small to do this analysis for pure judicare and judicare supplement models.

underway. Further analysis of the study data could reveal other factors that could affect a project's impact score or factors that could have a stronger relationship to a project's score than the type of attorneys responsible for the impact work.

APPENDIX A

**DESCRIPTION OF THE PRIVATE BAR
DELIVERY MODELS**

APPENDIX A

DESCRIPTION OF THE PRIVATE BAR DELIVERY MODELS

This appendix describes the six private bar delivery models tested in the study: judicare, contracts with law firms, prepaid legal insurance, pro bona, clinics and vouchers.

Each model is discussed first by identifying its distinguishing characteristics, then by describing the projects funded for the study, and finally by indicating major similarities and differences that evolved during demonstration project operations.

A. JUDICARE

The term "judicare" traditionally has been applied to programs that compensate private practice attorneys on a fee-for-service basis for providing legal services to poor people. For purposes of the Delivery Systems Study, the judicare model was defined more narrowly to distinguish it from other legal service delivery models that might ordinarily be included under the broad category of judicare.

1. DESCRIPTION OF THE JUDICARE MODEL

The judicare model uses attorneys in private practice to deliver legal services within a specified geographical area. The core staff in a judicare project is responsible at a minimum for designing the delivery system, recruiting private attorneys, and managing the project budget, but usually the staff also screens applicants to determine their eligibility for program services. The attorney-client relationship is established either by staff assignment of an attorney to the client, or by client choice of an attorney.

The judicare model is an open panel delivery system; that is, any attorney who practices law within the project service area may elect to serve program clients. Participating attorneys provide representation on a case-by-case basis and receive payment for services rendered. The grantee usually establishes fee schedules, including hourly rates and/or maximum fees for certain types of cases.

Panel attorneys do not guarantee to accept a specific number of cases or to provide a specific number of billable hours annually to

the project. Likewise, the project **does not guarantee** that any attorney will receive **a minimum amount in annual legal fees for** participating **on the panel**.

The study **tested three variations of the judicare model**:

- **Pure Judicare**. In this type of project, a small staff administers the program and makes referrals to panel attorneys. All project cases are handled by panel attorneys.
- **Judicare with Staff Attorney Component**. In this type of project, the staff not only provides administrative services, but also delivers legal services to clients. The staff includes at least one attorney, and may also include paralegals. All new cases are reviewed by the staff, which then determines whether the client will be served by the staff or referred to a panel attorney.
- **Judicare Supplement to a Staff Attorney Program**. In this type of project, a staff attorney program uses a panel of private attorneys for specific types of cases or to extend coverage to a previously unserved geographical area. The staff attorney program may hire additional personnel or may use existing personnel to administer the judicare project.

2. JUDICARE PROJECTS IN THE STUDY

The study included seven pure judicare projects, four judicare projects with staff attorney components, and four Judicare supplements to staff attorney programs. The projects are described below.

a. PURE JUDICARE

California Lawyers Service served a three-county rural area in northern California that was not covered by any other legal services program. The project staff consisted of five part-time employees: the project director and the secretary/bookkeeper, who administered the project out of an office in Santa Barbara, located approximately 600 miles from the service area; and one outreach worker for each of the three counties. Thirty private attorneys served on the judicare panel. Clients obtained services either by contacting the panel attorneys directly or by going through the local outreach workers. The **fee schedule** had a \$33 hourly rate and

flat fees or maximums for certain kinds of cases. The project established an annual ceiling of \$650 per client.

The Charles Houston Bar Association Judicare Service was sponsored by the Charles Houston Bar Association to serve the urban **community of East Oakland**, California, which is **also served** by the Legal Aid Society of Alameda County. The staff **consisted of** a project director, part-time administrator, part-time managing attorney and full-time or part-time secretary/paralegal. The grantee, a minority bar association, sought to establish a panel that was well represented by minority practitioners. In 1979, the panel **included 45 attorneys**, about half of whom **were** blacks, Hispanics and Asians. The fee schedule included \$25 hourly rate and maximums for certain kinds of cases. The project had ceilings of \$5,000 per attorney and \$600 per client annually, waivable by the project director **under exceptional circumstances**. The staff conducted intake and screening by telephone or in person and referred clients to panel attorneys on a rotation basis.

Alternative Delivery of Legal Services was sponsored by the Community Client Council, a client organization with a predominantly native Hawaiian membership. The project served six islands of the **state** of Hawaii. The staff consisted of a project director, secretary, part-time bookkeeper, two paralegals and, in 1979, an attorney. The project office was located in Honolulu. Clients obtained services either by contacting the Honolulu office or, on the five other islands, by visiting the branch offices of the statewide staff attorney **program**. The staff program provided intake services and referred **cases** to the staff, who referred clients to a panel of 150 attorneys on a rotation basis. The fee schedule had a \$30 hourly rate and flat fees **or maximums** for certain case types.

The National Conference of Black Lawyers recruited a panel of 30 private attorneys to serve senior citizens in the Kenwood-Oakland community of Chicago, Illinois, a community also covered by another legal services program. The staff consisted of a project director, paralegal and secretary. Clients were interviewed in person by the paralegal, and then were referred to panel attorneys on a rotation basis. The fee schedule included a \$25 hourly rate for out-of-court work and \$35 hourly rate for in-court work. The project established maximums of \$500 per case and \$6,000 per attorney annually, **waivable under exceptional circumstances**.

Northwest Minnesota Legal Services served a 22-county area in the northwest quadrant of Minnesota. The staff consisted of a project director, an administrative assistant, an intake worker and a bookkeeper. The project's service area was not served by any other legal services program. Due to

the size of the service area, the project made special arrangements to train employees of social services agencies to handle the intake and screening of applicants from their respective communities. The judicare staff reviewed all applications for service, and clients selected attorneys from the list of 187 panel members. The fee schedule had a \$20 hourly rate and maximums for certain case types, with an overall maximum of \$400 per case unless waived by the staff.

The Senior Citizen Judicare Project, sponsored by the Philadelphia Bar Association, served senior citizens in the central portion of Philadelphia County including the city of Philadelphia, which is also served by a staff attorney program. The staff consisted of a project director, paralegal and bookkeeper. Client intake was conducted either by telephone or in person at the project office or at senior centers located throughout the city. The staff assigned cases to 166 panel attorneys on a rotation basis. The fee schedule had a \$35 hourly rate with a \$100 maximum per case, except \$25 for wills and \$250 for appeals. Additional fees, if approved by the staff, were paid at the rate of \$20 per hour.

The Legal Help Program of Northeastern Connecticut was funded in early 1977 as a voucher project but was converted to a pure judicare project after nine months of operation. It served three predominantly rural counties, which were also covered by another legal services program. The staff consisted of a project director, administrative assistant/bookkeeper and secretary/receptionist. Intake and screening of clients were done by telephone or in person by the staff, and clients selected attorneys from a list of 38 panel members. Panel attorneys were paid for services at the rate of \$30.00 per hour or on the basis of a fixed fee schedule for certain kinds of cases. Panel attorney requests for fees in excess of the fee schedule had to be approved by the policy board.

b. JDDICARE WITH STAFF ATTORNEY COMPONENT

The Federation of Southern Cooperatives Judicare Project was established by a community organization headquartered in Atlanta, Georgia, to serve six rural counties: three in east central Mississippi and three in west central Alabama. The Alabama counties were not served by any other legal services program, but the Mississippi counties were in the service area of North Mississippi Rural Legal Services. The project staff consisted of a project director, staff attorney, secretary and five paralegals. The staff interviewed all applicants for service and decided whether cases would be handled by staff attorneys and paralegals or

referred to the 31 panel attorneys. In addition to serving **some** clients, the staff served as co-counsel with panel attorneys on major litigation or impact work and provided training and backup **as needed**. The fee schedule included a \$25 hourly rate and flat **fees or maximums** for certain case types.

Judicare of Anoka County, Inc. served one county in suburban Minneapolis-St. Paul, Minnesota, a community not covered by any other legal services program. The staff consisted of a project director, two part-time paralegals, and a secretary/bookkeeper. Clients were served by the staff, or were referred to a panel of 75 attorneys on a rotation basis. Attorneys were paid at the rate of \$25 per hour. The maximum of eight hours per case except 10 hours for dissolution was waivable by the staff in exceptional cases.

The Legal Aid Service of the Buncombe County Bar Association served Buncombe County, which includes the city of Asheville and neighboring rural communities in North Carolina, an area not covered by any other legal services program. The staff consisted of a project director, staff attorney, three paralegals and two clerical employees. The panel included 78 attorneys who were assigned cases on a rotation basis. Staff paralegals screened cases by telephone or in person and decided whether clients would be served by project attorneys and paralegals or referred to panel members. The fee schedule included a \$20 hourly rate for out-of-court work and a \$25 hourly rate for in-court work, up to a maximum of \$200 per case, waivable by the project director under exceptional circumstances.

The Western Illinois Legal Assistance Foundation, a locally funded staff attorney program, established a judicare project to serve two predominantly rural counties adjacent to the program's service area but not served by any legal services program. The executive director had overall administrative responsibility for the judicare project. The project staff included a managing attorney, two paralegals and a secretary. Applicants were interviewed in person by the staff, who decided whether cases would be handled by the staff or by panel attorneys. There were 15 attorneys on the panel, and clients selected attorneys from a list when cases were approved for panel attorney representation. The fee schedule had a \$35 hourly rate with maximums for certain case types and an annual ceiling of \$6,000 per panel attorney, waivable under exceptional circumstances.

c. JUDICARE SUPPLEMENT TO A STAFF ATTORNEY PROGRAM

The Georgia Legal Services Program, a statewide staff attorney program, used a judicare project to extend its reach

into two predominately rural counties. The judicare staff included a staff attorney, paralegal and part-time secretary/receptionist. In addition, six members of the staff program devoted a portion of their time to project administration and supervision. Applicants were interviewed in person by the judicare staff, who decided whether a case would be referred to panel attorneys or be handled by the project's staff attorney. A panel of 39 private attorneys handled cases on a rotation basis. The fee schedule had a \$20 hourly rate and a list of estimates for certain kinds of cases, which could be exceeded with staff approval.

The Legal Aid Society of the Multnomah County Bar Association, a staff attorney program, served one county in Oregon, including the city of Portland and its suburbs. It used a judicare project to handle conflict-of-interest cases. Because of this limited service, no special judicare staff was employed. Instead, the program contracted with the Oregon State Bar Association, which agreed to make referrals to panel attorneys and to administer the fee payment system. A panel of 138 attorneys handled a caseload that was 95 percent conflict cases involving domestic relations matters. Fees were paid at the rate of \$20 per hour with a \$400 maximum per case.

New Hampshire Legal Assistance, a statewide staff attorney program, used a judicare project to extend services to Belknap County, a rural county without a staff office. Six employees of the staff program devoted part of their time to administering the judicare project and handling the intake and payment systems. Applicants used a toll-free number to call the staff office, and those determined to be eligible for services selected attorneys from a list of 30 panel members. The fee schedule had a \$20 hourly rate and maximums for specific case types, waivable by the staff attorney program director.

Vermont Legal Aid. Inc., a statewide staff attorney program, used a judicare project to expand the scope of its service delivery on a statewide basis. The judicare staff consisted of a project director and part-time secretary. Although the program accepted applications at its offices, nearly all judicare applicants contacted the staff program by a publicized toll-free number. If they met the program's eligibility guidelines, they were given a list of 200 panel members from which they selected their attorney. The judicare attorneys provided general civil representation for persons in areas throughout the state that were underserved by the staff program. They also handled conflict-of-interest cases and cases involving matters in which the program staff had little experience, such as real estate and tort defense. The project paid attorneys \$20 per hour

plus out-of-pocket expenses. No maximum allowable fees were set for specific case types, but in each new case the panel attorney submitted an estimate to the project of the number of hours required to resolve the matter.

3. JUDICARE PROJECT OPERATIONS

Although all 15 judicare projects tested different approaches in administering their operations and designing delivery systems, the functions performed by the staff fell within seven categories: (a) recruiting panel attorneys; (b) determining staff size; (c) identifying project priorities; (d) conducting outreach and intake; (e) linking clients with attorneys in private practice or providing service directly; (f) developing quality control mechanisms; and (g) managing program finances.

a. RECRUITMENT OF PANEL ATTORNEYS

All of the projects attempted to design as simple a delivery system as possible to encourage private attorneys to join the judicare panels. A few projects required panel attorneys to have malpractice insurance. About half of the projects had written agreements with panel attorneys regarding fee schedules and billing procedures. Generally, efforts to recruit attorneys were most vigorous when the projects first started their operations, although private attorneys were free to join the panel at any time. These efforts included direct mailings to potential participants and staff presentations at local bar association functions. All of the judicare projects sought the cooperation and support of bar association leaders in the recruitment process.

Even though all practicing **attorneys in a project's geographical area were** eligible to participate, the proportion who did participate **varied from** project to project. The 15 judicare **panels ranged in size from approximately** 15 to 200 attorneys, **drawn from pools of 55 to 4,000** potential participants. **For example, in the three-county rural area covered** by California **Lawyers Service**, 30 of the 55 **attorneys in private practice** joined the panel. **Vermont Legal kid's judicare project was designed to supplement the staff attorney program throughout the state.** Of 800 practicing attorneys who were eligible to join the **Vermont judicare panel**, 200 did so.

Although **fees paid** by the judicare **projects were always lower than fees customarily charged by private attorneys**, many attorneys **viewed participation in the judicare project as a way to fulfill their professional obligation to serve indigent persons** and frequently **considered representation of judicare clients to be the equivalent of pro bono work.**

Staff members and panel attorneys alike said **the judicare projects made them more sensitive to the legal problems of the poor.**

Approximately two-thirds of the projects established formal procedures to remove attorneys from the panel, but the removal of an attorney was rare. In one project, where panel attorneys were required to have **malpractice insurance**, a few attorneys were asked to leave the panel after they lost or failed to renew their insurance coverage. In another project, the staff found that an attorney had grossly overbilled the project; the attorney left the panel by mutual agreement. In a third instance, an attorney voluntarily resigned after the staff reviewed client complaints against him.

b. DETERMINING STAFF SIZE

The size of the project staffs depended on the number of cases and on the staff functions identified as part of the project's design. In some projects the staff provided services to clients or undertook special outreach efforts in the client community as well as ordinary intake and eligibility functions.

Staff size did not always correlate to the size of the client population or the service area. For example, the Philadelphia Bar project, with a staff of three persons, served a population of approximately 13,000 senior citizens in Philadelphia, while the Northwestern Minnesota project, with a staff of four, served a population of approximately 62,000 persons residing in an area about the size of the state of New Hampshire. Despite their marked differences in client population and service area, both of these Pure Judicare projects developed workable outreach programs and delivery systems with staffs of comparable size.

c. PROJECT PRIORITIES

The Multnomah Bar project was designed from the outset to provide limited services. It handled only conflict-of-interest cases referred to it by the staff attorney program that it supplemented.

The 14 other judicare projects were expected to adopt priorities for the use of their resources in accordance with Legal Services Corporation regulations. Six of the 14 projects served communities where no staff attorney program existed. The six projects, which included California Lawyers Service, Northwest Minnesota, Judicare

of Anoka County, Buncombe County Bar, Federation of Southern Cooperatives, and Western Illinois, offered coverage in a wide range of civil legal matters. The other eight projects operated in areas already covered by a legal services program. Several of these projects attempted to avoid duplication of coverage by handling cases that usually were not accepted by the staff programs. Judicare project staffs frequently stated that two purposes were achieved by adopting a case selection system that complemented staff programs: (1) duplication of coverage was avoided, and (2) cases were referred to attorneys best equipped to handle them. Most believed that staff programs had greater expertise in handling certain kinds of cases, such as administrative agency or public benefits matters. On the other hand, they felt that attorneys in private practice had greater experience and expertise in real estate matters, wills and family law, and therefore generally gave those matters low priority.

d. CLIENT OUTREACH, INTAKE AND ELIGIBILITY SCREENING

The most common methods of outreach were distribution of brochures, posting of notices in public offices or community centers, radio and television public service announcements, newspaper coverage and advertisements, and personal contact with community leaders and employees of social services agencies. Several projects discontinued their outreach efforts after their start-up period because the high demand for services generated by these initial efforts quickly strained existing budgets.

Each project designed an intake system to accomplish two purposes: to determine whether an applicant met project eligibility

guidelines, and to learn whether an applicant's legal problem was the type of problem ordinarily handled by the project. In contrast to staff attorney programs, where applicants generally go to one office for intake and service, judicare projects generally do intake and eligibility screening in one office, then send clients for service to the offices of panel attorneys.

There were significant variations among the intake and eligibility screening systems adopted by the 15 judicare projects. Among the seven pure judicare projects, the variations were related to the special needs or circumstances in each geographical area and community and not to characteristics of the submodel type.

The Northwest Minnesota project, for example, trained employees of 81 social services agencies to conduct much of the initial screening of the applicants who resided in a 22-county area. Each application was then forwarded to the project staff for review and approval. This procedure was adopted so applicants would not have to travel long distances for the initial interview. Information about the Northwest Minnesota judicare project was disseminated through an existing network of social services agencies. (This method poses potential conflict-of-interest problems since an applicant's problem could involve the social services agency that is doing the screening.)

The Philadelphia Bar Association project hired two part-time outreach workers who visited 14 senior citizen centers monthly to do intake. In addition, the Philadelphia panel included 60 attorneys who were willing to make house calls or visit nursing homes or hospitals in order to assist disabled persons.

The statewide judicare project in Hawaii had one office, located in the city of Honolulu on the island of Oahu. Oahu applicants were interviewed in person by the project staff in that office. Applicants on the other five islands served by the project were screened initially by the staff of the branch offices of Hawaii's statewide staff attorney program.

Screening in the four projects with staff attorney components was generally done in person by the judicare staff. In this submodel, the staff attorneys and/or paralegals handled a major portion of the caseload, including "advice only" matters. The staff preferred personal interviews because the opportunity they provided for in-depth review of each applicant's legal problem facilitated the decision as to whether the case should be handled by the staff or a panel attorney.

Among the four judicare projects that were designed as supplements to staff attorney programs, the variation in screening systems depended on whether the project staff provided direct legal services. The Vermont and Multnomah project staffs did not provide legal services and most screening was done by phone. The Vermont and New Hampshire projects used a statewide toll-free number to maximize accessibility and minimize the need for persons to travel to the project office. Applications for service in the Georgia project generally were made in person and, depending on the type of case, the client was referred to a panel attorney or assigned to attorneys in the staff attorney program.

All 15 judicare projects provided for emergencies by allowing screening and referral to be done by phone in order to expedite

service. In **emergencies**, clients generally could be put in touch with **an attorney** within hours of the initial **request for service**.

e. **REFERRAL SYSTEMS AND CLIENT SERVICES**

The 15 judicare projects **used two basic approaches** in linking eligible **persons** with panel attorneys: (1) referral **or assignment to a panel attorney** by a staff **member, or** (2) client selection, **either** from a list **of participating attorneys or on the basis of personal** knowledge of a particular **attorney**. **Five of the seven pure** judicare projects **used an assignment system and two used** client selection. Three of the **four projects** with staff **attorney components used an** **assignment system and one used** client selection. Two of the **judicare** **supplements to staff attorney programs assigned clients and two used** client selection.

When projects assigned clients, they **selected panel attorneys on** **the basis of one or more of the** following criteria: **office location,** attorney availability, equal distribution **of cases among** all panel attorneys, **client preference, attorney** specialization **or expertise,** and any special considerations relating to the -attorney or client. An example of special considerations would be the willingness of an attorney to visit the **home of an** elderly or disabled **person.**

The pure judicare **submodel is designed to use panel** attorneys exclusively in the delivery of legal **services to** clients. The staffs are not expected to handle **client cases**, and their client contacts are generally confined to intake **and referral.** **However,** three pure judicare projects had staffs that provided **services beyond** the scope of the submodel **design.** These projects had directors who were attorneys.

In one project, the staff handled some simple advice cases. In the other two projects, the staff engaged in more complex service delivery, including representation of clients in impact work.

The staff of judicare projects with staff attorney components were expected to provide some level of representation, as well as intake and screening. They reviewed new cases and decided whether the staff or a panel attorney would handle a particular case. Advice matters and "poverty law" cases were usually handled by the judicare project staff, while other matters were referred to panel attorneys. The projects that assigned cases in this manner felt that they utilized the respective expertise of staff and panel attorneys and conserved project funds.

All four judicare projects that were supplements to staff attorney programs had intake and referral systems closely tied into the staff programs' priorities and caseloads. Matters handled frequently by the staff attorney program - including poverty law cases - were referred to the parent staff attorney program.

The Multnomah Bar project handled only conflict-of-interest cases referred to it by the staff program. In the other three projects, cases were referred to panel attorneys if they were outside the established priorities of the staff program or within the specialty area of the panel attorneys. For example, the Vermont judicare project handled general practice cases in geographical areas underserved by the staff program, all conflict-of-interest cases throughout the state, and - in areas served by a staff attorney program office -- handled cases such as tort or real property matters in which the staff attorneys had limited experience. Staff attorneys in the Georgia Legal Services and

New Hampshire Legal Assistance programs referred general practice cases to judicare panel attorneys and handled poverty law matters themselves.

f. QUALITY CONTROL

None of the 15 judicare projects had procedures for substantive review of cases handled by panel attorneys. However, the staff of about half of the projects provided training and/or technical assistance to panel attorneys to help maintain quality services. Most often, such assistance was provided in response to questions asked by panel attorneys on particular cases. Staff members provided legal research or offered copies of pleadings and other printed materials and contacted other legal services attorneys on behalf of panel attorneys. All projects maintained records of case openings and closings, and most projects used tickler or tracking systems to encourage prompt disposition of cases by panel attorneys.

Two of the seven pure judicare projects provided training and backup assistance to panel attorneys. Northwest Minnesota Legal Services, which had a project director who was an attorney, provided backup in social security and landlord-tenant matters when requested by a panel attorney. The staff of the Philadelphia Bar project made arrangements with Community Legal Services, the staff attorney program serving Philadelphia, to conduct a seminar on public housing law for panel attorneys. Panel attorneys were informed that only attorneys who attended the seminar would be eligible to handle public housing cases under the judicare project.

All four of the judicare projects with staff attorney components provided technical assistance and backup to panel attorneys. The

Buncombe County project, for example, offered a training session on landlord-tenant law. All four projects had staff attorneys available to answer questions that arose in cases being handled by panel attorneys. The staff of the Federation of Southern Cooperatives project served as co-counsel to panel attorneys on all major impact cases.

Three of the four judicare projects operating as supplements to staff attorney programs provided training and technical assistance. For example, the Georgia Legal Services staff trained one judicare attorney in truth-in-lending practice, and referred all such cases to that attorney. The one project that did not provide training or technical assistance was the Multnomah project. It referred to panel attorneys only cases in which the staff attorney program had a conflict-of-interest. Ninety-five percent of these cases were domestic relations matters, and panel attorneys did not express an interest in or need for training or backup assistance.

g. BUDGET AND FISCAL MANAGEMENT

Judicare project budgets included staff salaries, panel attorney fees, and overhead expenses such as rent, office equipment and supplies. In about half the projects, a portion of salaries and overhead expenses was donated by the sponsoring bar association or legal services organization. The Philadelphia Bar project was the only pure judicare project receiving major in-kind contributions from its sponsoring organization, the Philadelphia Bar Association, which donated office space, equipment, supplies and the services of a receptionist.

Two of the four judicare projects with staff attorney components also received contributions from sponsoring organizations. For example, Western Illinois Legal Assistance Foundation provided space in its office for one of the judicare paralegals, and its staff attorneys provided supervision and support for her work.

All four judicare projects that were supplements to staff attorney programs had some of their personnel and overhead expenses absorbed by the staff programs. For example, in the Georgia project, in addition to the staff persons who devoted full time to the judicare project, six members of the staff attorney program handled various aspects of the judicare project, including budget review, review of panel attorney bills and supervision of the project attorneys' work.

All judicare project budgets included funds for panel attorney fees. Careful monitoring of these fees was necessary to ensure that the project could continue intake at a reasonable level throughout the funding year and to ensure that funds would be available to pay panel attorneys as bills were submitted.

On acceptance of a case by a panel attorney, the project was committed to pay the allowed fee in return for the attorney's services. To fulfill that commitment, each project needed to monitor its fee commitments and maintain an accounting system that would encumber the committed funds. If a particular case required work beyond the initial estimates, the attorneys were expected to obtain authorization to exceed the estimates. Attorneys were paid on an interim basis or at closure of the case, depending on individual project design.

Six projects encountered budgetary difficulties due to high fee schedules or inadequate encumbrance systems. Two projects initially permitted attorneys to bill for cases on the basis of "usual and customary" fees. Later they established uniform fee schedules in order to control expenditures. Two other projects adjusted their fee schedules downward to stay within their budgets. The remaining two had difficulty estimating fees and accurately tracking outstanding commitments to panel attorneys.

When some project expenditure rates threatened to exceed budgets, the projects limited the number of new cases or paid less than the full amounts billed by panel attorneys. These changes in service levels and reimbursement procedures caused problems either between the projects and the client communities or between the projects and the panel attorneys. When one project learned that it was overspending its budget for attorneys' fees in midyear, it closed down intake for four months and reduced attorneys' bills retroactively. The interruption in service confused the client community, and the bill reductions led several attorneys to withdraw from the panel.

Although the fees allowed by all 15 judicare projects were lower than the "usual and customary" fees charged by attorneys in their respective communities, panel attorneys agreed to accept them. A number of attorneys reported that participation in the judicare project was attractive because there were no problems collecting fees. Most panel attorneys agreed that the fees were acceptable as long as they covered overhead expenses associated with the casework. Projects reported few attempts to abuse fee schedules or billing systems.

B. CONTRACT WITH LAW FIRM

1. DESCRIPTION OF THE CONTRACT WITH LAW FIRM MODEL

The contract **model as defined** by the Delivery Systems Study solicitation **had two variations**: **a general services contract** and **a specialized services contract**.

- Under a general services contract, private attorneys agree to provide legal services to a designated client population group, defined either by geographic area (all eligible clients in Flagler County, for example) or by population characteristics (such as all eligible Spanish-speaking clients). The contract can be between the Legal Services Corporation itself and a selected group of attorneys, or between the attorneys and a Legal Services Corporation grantee. The attorney-contractor is paid on a fee-for-service basis (fixed hourly rate or fee schedule), with **maximums** involving total fees and services, such as \$5,000 per year for no more than 100 clients.
- In a specialized services contract, a selected group of private attorneys agree to provide specific types of legal services to clients referred by a Legal Services Corporation grantee. Payment terms are the same as in the general services contract.

The contract model, by definition, involves a closed panel.

Private attorneys are selected on the basis of criteria established by the Legal Services Corporation or a staff attorney program. With one exception, all contract projects in the study involved staff attorney programs funded by the Legal Services Corporation. The exception was a contract project with the law firm of Crittenden and Still in Birmingham, Alabama, which was administered directly by the Delivery Systems Study staff, in Washington, D. C. After one year, when it became apparent that the distance caused supervisory and communication problems, the local staff attorney program, Birmingham Area Legal Services, agreed to become the grantee for this project.

2. CONTRACT PROJECTS IN THE STUDY

Nine projects **were tested under** the contract model. **Seven were** general services contracts, and two were specialized services contracts. Eight projects **entered** into written contracts with private attorneys or law firms. One project, **West Texas Legal Services**, did not use a written contract.

a. **GENERAL SERVICES CONTRACT**

Central Florida Legal Services contracted with the law firm of Connelly and Atack in order to expand service into rural Flagler County, a previously unserved area. The firm, which was selected because the director of the program had knowledge of its reputation and qualifications, was compensated on a fee-for-service basis at the rate of \$22 per hour. The firm handled intake, eligibility determination and service for all applicants residing in Flagler County.

Colorado Rural Legal Services contracted with 20 individual attorneys in order to expand its services into a previously unserved area of northwestern Colorado. The contract model provided an alternative to "circuit-riding" by staff members over a rugged, sparsely populated 19,000-square-mile, 12-county area. The private attorneys were selected on the basis of office location, legal experience and commitment to low-income persons. Each private attorney accepted responsibility for providing general legal services to clients in a specific geographical area. Private attorneys were compensated on a fee-for-service basis at the rate of \$25 per hour, with case maximums, and were reimbursed for out-of-pocket expenses. A staff program branch office in Grand Junction handled intake and eligibility determination. Because of the distances involved, most applicants contacted the office over a toll-free telephone line.

Northeast Kentucky Legal Services contracted with 18 attorneys in private practice in order to increase client services in 15 rural, mountainous counties of Kentucky. These counties were served by the staff program, but lack of transportation had inhibited client access to the staff attorney offices. The panel attorneys were selected on the basis of their reputation and experience in serving the poor people of the area, as well as by office location, and were paid on a fee-for-service basis at \$30 per hour. Client intake, eligibility determination and case conference evaluations were handled by the staff program, which then referred clients to panel attorneys. The staff matched attorneys with

clients by considering the complexity of the case, the skills and experience of the attorney and the geographical locations of attorney offices and client residences. Clients who lived in counties that did not have resident panel attorneys were referred to panel attorneys in other counties on a rotation basis.

The Legal Aid Society of Monterey County contracted with one private attorney in order to reach an underserved Hispanic population in southern Monterey County, California. The service area was primarily rural. The private attorney was selected on the basis of his legal experience and bilingual skills. This was the only contract project in which a private attorney served clients out of a staff program office, instead of the attorney's office. The Monterey staff program established a small satellite staff office in the target community, and the private attorney agreed to work at that office 32 hours a month for a flat monthly fee of \$1,100. The salaries of a full time paralegal and secretary were provided for in the grant. The paralegal and a secretary handled outreach, client intake and eligibility screening.

Redwood Legal Assistance contracted with one attorney in Fort Bragg, California. The contract attorney provided general legal services to clients in the extreme western portion of Mendocino County, an area isolated from the staff attorney office by mountainous terrain, a poor road and a limited public transportation system. The study grant covered a fixed fee of \$1,500 a month for the contract attorney, as well as the salary of his full-time secretary. The contract attorney had been a staff attorney with Redwood Legal Assistance prior to entering private practice. He was selected on the basis of his legal experience and commitment to the targeted community. He provided general legal services, excluding property law, probate law and business law.

The Utah Legal Services Rural Law Project used both general services contracts and a specialized service contract in an effort to increase its coverage of rural counties in southern Utah. General services contracts were executed with approximately 25 private attorneys, whose offices were located in sparsely populated communities. These attorneys were selected on the basis of office location and legal experience. A specialized services contract to serve two Native American tribes, the Ute and Goshute, was established with the Larry Echohawk law firm, which had previous experience in serving these client groups. This demonstration project was originally funded as a judicare supplement to a staff attorney program, with a special focus on elderly clients. Due to administrative problems in its first year of operation, Utah Legal Services modified its funding proposal

in 1978 to a contract model project aimed at serving the rural poor and at meeting special Native American needs. Intake, client eligibility and referrals on all contract cases were handled through the staff attorney office. All contract attorneys were paid an hourly rate of \$25, with no maximum fees.

Legal Services of Middle Tennessee contracted with approximately 50 private attorneys in order to provide additional services to the three-county, primarily urban area surrounding Nashville. Initially, the project did not intend to limit participation of panel attorneys. The only criterion for participation in the project was membership in the bar association's lawyer referral service. The project later decided to reduce the number of private attorneys on the panel to 25 due to administrative difficulties in managing a larger panel. The private attorneys were paid \$25 per hour, with a maximum fee of \$300 per case. Intake and eligibility screening was performed by the staff attorney office, and referrals to panel attorneys were made on the basis of case type.

b. SPECIALIZED SERVICES CONTRACT

Birmingham Area Legal Services took over the contract the Legal Services Corporation originated with the law firm of Crittenden and Still to handle specific types of cases in Birmingham and Bessemer, Alabama. The firm handled such matters as wills, tort defenses and small claims court matters, which were normally not handled by the staff program. All applicants for service were interviewed by personnel of the staff attorney program, who determined whether the cases would be referred to Crittenden and Still. The firm was paid on a fee-for-service basis at the rate of \$30 per hour.

West Texas Legal Services contracted with eight private attorneys to provide legal representation in divorce cases. The project served Tarrant County, Texas, including Fort Worth and the surrounding suburban and rural areas. The contract attorneys were selected on the basis of their prior experience in serving poor people. The staff attorney office prepared all the necessary papers in the divorce cases, and the private attorneys were used almost exclusively for courtroom representation, thereby saving staff attorney time that would have been spent in travel and courtroom appearances. The contract attorneys were paid \$25 per hour, with maximums of \$75 for uncontested divorces and \$350 for contested divorces.

3. CONTRACT PROJECT OPERATIONS

The administrative functions of the contract model projects may be placed in six categories: (a) recruiting contract attorneys; (b) setting priorities regarding types of service; (c) handling client outreach, intake and eligibility screening; (d) maintaining a referral system; (e) providing quality control; and (f) managing finances.

a. RECRUITMENT OF CONTRACT ATTORNEYS

Contract attorneys were usually selected on the basis of their legal experience, experience in working with low-income persons and office location. Specific project objectives could lead to consideration of other criteria. For example, the Monterey project was designed to serve a Hispanic community and therefore required a bilingual attorney.

b. PROJECT PRIORITIES

Both the general and specialized service contract projects helped the staff attorney programs expand their service area or provide a greater range of services to clients. General services contracts helped the programs reach more clients effectively, and the specialized services contracts provided the staff attorney programs with the skills and experience of private attorneys that would complement the work of their staff attorneys. For example, Birmingham Area Legal Services used a specialized service contract to provide representation to clients in areas such as tort defense, which were not regularly handled by the staff attorney office.

c. CLIENT OUTREACH, INTAKE AND ELIGIBILITY SCREENING

Since all contract projects were associated with an existing staff attorney program, special outreach and community education efforts usually were not necessary. However, in the communities where the staff attorney program did not have an office, the contract attorneys engaged in outreach and community education activities in order to make their presence and availability known to the client community. For example, the contract attorney in the Redwood Legal Assistance project did client outreach. In the other seven contract projects, client intake and eligibility screening were done directly by the staff attorney programs.

d. REFERRAL SYSTEM

In most contract projects where there was more than one panel attorney, clients were served by attorneys based on geographic convenience. But there were other referral methods; in one specialized services contract project -- West Texas Legal Services -- the clients were referred to attorneys on a rotating basis since the attorneys were located in the same general area.

e. QUALITY CONTROL

The staff attorney offices expected to monitor quality of service through a case review process, but frequently little or no case review was performed. Neither of the specialized services contract projects had a system for case review. The seven general services projects established case review mechanisms, but in six of the seven projects little or no case review actually took place. One project director expressed concern that case review might be construed as interference

and would therefore discourage participation by contract attorneys. Another believed that because the attorneys on the panel were carefully selected there was little need for case review or case supervision. The one project in which case reviews were regularly conducted was Colorado Rural Legal Services. There the project director regularly visited the contract attorneys' offices to review their case files.

f. BUDGET AND FISCAL MANAGEMENT

The staff attorney programs that operated contract projects were responsible for administering the payment of the attorneys' fees and out-of-pocket expenses and maintaining litigation funds. Seven contract projects received referrals from the staff attorney programs, thus the cost of intake was also absorbed by the programs. The grant to Redwood Legal Assistance included funds for a secretary and therefore covered some indirect administrative costs.

Five contract projects paid attorneys on a fee-for-service basis and established adequate systems to keep attorneys' payments within their budgets. The Redwood project and the Monterey project did not need special encumbrance systems since each paid flat monthly fees to the contract attorney regardless of how many cases were opened. Two other contract projects -- Central Florida and West Texas -- did not have encumbrance systems; however, both projects underspent their budgets.

C. PREPAID LEGAL INSURANCE

The prepaid legal insurance model is based on the group insurance concept: a premium or contribution is paid in advance so that the members of the covered group will be entitled to a specific package of benefits during a specified period of coverage. The Delivery Systems Study funded six prepaid legal services plans: Barnett, Jones & Seymour; Group Legal Services; Idaho State Bar Association; Prepaid Legal Services of Kansas; Legal Services for Seniors; and Midwest Mutual Insurance Company.

1. DESCRIPTION OF THE PREPAID MODEL

When the Delivery Systems Study commenced, the prepaid legal insurance movement, directed at middle-income consumers, was just beginning. There have been many developments in the field since then and there are now many variations of prepaid legal insurance. However, all prepaid plans have the following five elements:

- Membership Enrollment. Each plan must identify and enroll a group of eligible members. Members may be individuals or families.
- Schedule of Benefits. The plan's schedule of benefits describes the kinds of legal services and extent of benefits that members are entitled to receive during the period of coverage.
- Premiums or Contributions. A set amount is paid into the plan to purchase coverage for each member.
- Administration. The plan may be administered by a consumer group, bar association, law firm, insurance company or other administrative organization. Prepaid plan administrators manage the plan's funds and are responsible for enrolling members, recruiting attorneys and paying claims.

- Providers. The attorney-providers **may be on a staff** hired by the administrators or in private **practice**, or a combination of both. In describing providers, reference is frequently **made to "open panel" or "closed panel" plans**. **An open panel plan is one in which any attorney admitted to practice in the covered area is eligible to provide services**. **A closed panel plan is one in which only certain attorneys, on staff or in private practice, are selected by the administrators to provide services**. In both open and closed panel **plans, participating attorneys enter into agreements with the administrators regarding fee schedules, billing systems and other matters that will govern their work on members' cases**.

2. PREPAID PROJECTS IN THE STUDY

The Legal Services Corporation funded six prepaid plans. Two were open panel plans (Idaho State Bar Association and Prepaid Legal Services of Kansas), three were closed panel plans (Group Legal Services, Legal Services for Seniors, and Barnett, Jones & Seymour), and one plan — Midwest Mutual in Virginia — operated both a closed panel plan (in Roanoke) and an open panel plan (in Norfolk).

Barnett, Jones & Seymour, a law firm in southern California operated a closed panel plan designed to serve approximately 1,050 families from the cities of Norwalk and Artesia in Los Angeles County. Both cities were covered by another legal services program. Approximately 10,000 low income persons reside in these two cities and were in the potential membership group of the firm's prepaid plan. In 1977, because of enrollment problems experienced by the project, funds for a bilingual outreach worker were added to the budget. Through door-to-door solicitation, primarily of Hispanic and elderly residents, the outreach worker enrolled 1,076 members. Each member represented a family unit, and the Delivery Systems Study grant paid the annual premium of \$84 per member. The grantee, Barnett, Jones & Seymour had experience in group legal practice prior to receiving the Delivery Systems Study grant. The firm used grant funds to pay the premium on a prepaid legal insurance plan underwritten by Midwest Mutual Insurance Company. The firm was responsible for identifying and enrolling members, providing legal services covered under the schedule of benefits and billing Midwest Mutual according to a fee schedule.

The 1978 grant included **funds** for the salary of an outreach paralegal and for litigation **and other expenses**. Barnett, **Jones & Seymour agreed that** it would be responsible for providing **covered benefits** to all prepaid plan **members**. Eighty percent of the total **grant was earmarked** for legal fees. **The remaining 20 percent was retained** by Midwest Mutual for administrative **costs**. **Barnett, Jones & Seymour** would provide, pro bono publico, **any services** required after **the 80 percent set-aside** for legal **fees had been expended**. **The Barnett, Jones & Seymour plan differed from most** prepaid plans in this **respect, since** the provider, rather than the **plan underwriters**, bore the risk of **member overuse**.

Group Legal Services was formed by two attorneys as a staff-insured closed panel plan. Group Legal Services served groups throughout the state, but the Delivery Systems Study grant covered 2,000 **members** living in the southwest part of Los Angeles County, California, **an area** covered by an **existing legal services program**. Group Legal Services administered the plan and provided **services** through its staff **attorneys and a small closed panel of outside private practitioners**. The schedule of **benefits** provided **members** with unlimited **telephone consultation and advice** in specified **problem areas**, and **referral to a group of attorneys for representation in more complex cases**. The majority of client **matters** (85 percent or more) were handled by **telephone**. The local **welfare agency assisted** Group Legal Services in soliciting and enrolling **members** by mailing **notices to a random sample of welfare recipients**, inviting **them** to enroll in the Group Legal Services plan. The Delivery Systems Study grant to Group Legal Services was based on a budget for staff salaries, overhead expenses and panel attorney fees - not on a fixed fee per member. Group Legal Services agreed that all **members** would receive the **services** described in the schedule of **benefits** during the period of coverage, regardless of whether Group Legal Services' actual operating costs exceeded the total **amount of the grant**.

The Idaho State Bar Association sponsored an open panel plan to cover 10 counties of the state that were not served by any legal services program. All persons in this geographic area who held medicaid cards or otherwise met the Legal Services Corporation financial eligibility guidelines were automatically enrolled as group **members**. There was no specific enrollment system, nor was there a discrete group of potential **members**. The plan administrators estimated that approximately 16,000 low income persons residing in the area were entitled to membership. The State Bar contracted with an information and referral agency and the local staff legal services program to assist in outreach work and in educating eligible persons about the prepaid plan.

The study grant was not based on a fixed premium per member, but rather on a proposed budget for legal fees. Administrative costs (salaries, overhead) were not included in the study grant, but were paid by the bar association. Attorneys, who were selected by the clients, billed the plan on the basis of their "usual and customary" fees for work done on cases, up to allowable annual maxima set forth in the plan's schedule of benefits. In the second year of operation, attorney billings exceeded the project budget. To resolve the deficit, the project paid only 65 percent of each outstanding bill.

Prepaid Legal Services of Kansas operated an open panel automatic enrollment plan covering eight counties in southwest Kansas not covered by a legal services program. The plan was administered by Alliance Administrators of Kansas. Seventy-three attorneys agreed to participate on the open panel and each paid a \$50 fee to join. All medicaid card holders in the area and other low income persons who met Legal Services Corporation financial guidelines were automatically covered. Information about the plan was disseminated through local newspapers and television stations and through contacts with workers in social services agencies. Using 1970 Census figures, the project estimated that approximately 3,000 poor persons qualified for membership in the plan. The schedule of benefits established maximum annual benefit levels per member, but no provision existed to determine payment if a member exceeded these maximums within the period of coverage. Attorneys billed the administrators their "usual and customary" fees for work done under the plan. Eligibility was checked by staff of Alliance Administrators located in Dodge City. If the members were still eligible for service when they requested an attorney, they would chose their attorneys from the panel list. As in the Idaho Bar project, attorneys' fees exceeded the project budget in the first year of operation. The project closed out the pending cases "pro bono," i.e.-, told the attorneys that they would not be paid for the remainder of their pending cases. At the same time, Alliance Administrators instituted a new policy for the following grant year. A percentage of all fees were withheld until the end of the year, and if adequate funds remained, the attorneys received full payment.

Legal Services for Seniors, a nonprofit organization, operated a closed panel plan serving Alameda and Contra Costa Counties in the San Francisco Bay area. Both counties were also covered by other legal services programs. The plan was designed to serve a group of 1,060 senior citizens. The project staff was responsible for identifying and enrolling members. The staff included two part-time attorneys who screened cases and provided services in a limited number of them. The bulk of the legal services was provided by a panel of 20 private practitioners. These panel attorneys were selected by the plan staff on the basis of their experience,

specialty areas and office location. Members did not select specific attorneys to handle their cases. Instead, the staff designated an attorney for each member after conducting a preliminary interview. Panel attorneys agreed to follow a fee schedule that established hourly billing rates as well as maximum allowable fees for certain kinds of cases. The grant to Legal Services for Seniors was based on a budget submitted for staff salaries, overhead expenses and panel attorney fees, not on a fixed premium per plan member.

Midwest Mutual Insurance Company, an insurance company administering private sector legal services plans since 1973, administered a plan designed to serve members residing in the cities of Norfolk and Roanoke, Virginia. Both cities were covered by legal services programs. The plan operated with an open panel in Norfolk and a closed panel in Roanoke. In each location, the plan members were free to select their attorneys. In Roanoke, the choice was limited to six attorneys selected by the insurance company administrators. Midwest Mutual was responsible for enrolling members. The project relied on the assistance of community services organizations, or employed persons recommended by those organizations, to enroll members for its first two years of operation. This proved to be more time-consuming and expensive than anticipated. Therefore, in its third year of operation, Midwest Mutual used its own staff to recruit and enroll members. In 1979, 2,190 members were enrolled at an annual premium of \$100 per family. All participating attorneys agreed to bill on the basis of "usual and acceptable" fees, which were defined in fee schedules established individually for panel attorneys. Midwest Mutual assumed the risk of overuse of plan benefits.

3. PREPAID PROJECT OPERATIONS

a. MEMBERSHIP ENROLLMENT

Any prepaid plan must have a mechanism to identify members of the group who are covered by the schedule of benefits. This is necessary for two reasons.

First, the plan administrators must be able to communicate with the membership group to inform them of their membership in the plan, to educate them about the services available and to provide preventive legal education or other services that may be included in the schedule

of benefits. Second, the plan administrators must be able to assess how many persons or families are entitled to coverage during the specified period and who they are so they can determine the premium rate or contribution per member, develop a benefits package that will be appropriate for the membership and make certain there is an adequate number of panel attorneys.

In the private sector, nearly all prepaid legal services plans have been marketed to existing groups: credit unions, labor unions, professional associations or other membership organizations that predate the formation of the prepaid plan, and existed for purposes other than legal assistance. They are called "true groups." The administrators of a prepaid plan may choose to offer the plan to such groups either on an automatic enrollment basis or through voluntary enrollment. In the former, all persons belonging to a specified group are automatically deemed members of the plan. In the latter, all persons belonging to a specified group are eligible for membership but must individually agree to join the plan.

None of the six prepaid plans funded in the Delivery Systems Study was a "true group," to which the prepaid plan could be easily marketed. This required the plan administrators to somehow create a group of plan participants.

The study's prepaid plans used both voluntary and automatic enrollment systems. Barnett, Jones & Seymour; Group Legal Services; Legal Services for Seniors; and Midwest Mutual were voluntary; the Idaho and Kansas plans were automatic.

All four voluntary enrollment plans had considerable difficulty identifying eligible persons and soliciting membership in the group. For example, Barnett, Jones & Seymour began its enrollment process in April, 1977 with the goal of enrolling 1,036 members. Initially, the firm hired a private consulting firm to do membership enrollment for the study grant. When that effort did not produce adequate results, Barnett, Jones & Seymour decided that it would be more feasible to do the enrollment itself, and it hired an outreach worker for door-to-door solicitation, finally enrolling a total of 714 members as of August, 1977. (Barnett, Jones & Seymour's enrollment was approximately 1,050 both in 1978 and 1979.) The firm found that enrollment was an ongoing process; as members left the group or could not be located, Barnett, Jones & Seymour enrolled new members in order to maintain its membership level.

The enrollment problems encountered by the four voluntary enrollment plans adversely affected project operations. The plans could not become fully operational until the enrollment problem had been resolved, as membership is an essential element of the prepaid model. Resources had to be reallocated or additional funding had to be obtained from the Corporation to provide for outreach workers and other special enrollment efforts.

The Idaho and Kansas plans used automatic enrollment systems. They did not enroll a defined group of members. Instead, coverage was confirmed when a person applied for legal service and was determined to be eligible. The automatic enrollment system used by these two plans enabled them to begin operations without the problems of voluntary enrollment plans.

Although automatic enrollment systems eliminate the need for solicitation and enrollment of members, it is not possible to precisely identify group members with these systems. The absence of a defined group can make it difficult to develop actuarial data to compute a premium. However, the automatic system offers the advantage of enabling the plan to begin operating quickly and does not preclude low income persons from receiving legal assistance simply because they failed to enroll during a prescribed period.

b. SCHEDULE OF BENEFITS

The schedule of benefits, which describes the kinds and extent of services that members are entitled to receive, is established prior to the effective date of the prepaid plan. The administrator or underwriter must know in advance the potential financial liability of the plan in order to establish the premium. Therefore, in addition to knowing the number and characteristics of the membership group, the administrator must know the benefits that will be offered. An actuarial analysis can then be made to determine probable utilization rates and the cost of the services likely to be used by the group.

'The six prepaid plans in the study defined their schedules of benefits in different ways. For example, the Barnett, Jones & Seymour schedule of benefits identified specific case types (for example, divorces and wills) that would be handled and, within each case type, established maximum benefit levels on the basis of either hourly rates or a flat fee. The Idaho State Bar schedule of benefits defined covered services in terms of the kinds of legal work (for example, office work, judicial and administrative proceedings) that members were entitled to

receive and **the maximum** annual benefit levels for each category of work.

All prepaid plans limit the available **benefits, usually by providing a fixed amount of benefits per year.** In the private sector, **plan members can become self-insurers once they use up the benefits available.** At least in theory, they **have the option of purchasing additional legal services if their coverage is exhausted.** However, poor clients are unable to pay for services beyond the coverage of the prepaid plan to which they belong.

The prepaid plans in the study handled this problem in a variety of ways. The Legal Services for Seniors project had a procedure under which the board and/or staff could extend the maximum in a particular case. The Idaho State Bar plan, on the other hand, expected the attorney to provide services pro bono if a member needed legal work beyond the allowed maximum. The Midwest Mutual plan did not set specific **ceilings on the amount of services that could be billed in a case, but the panel attorneys agreed to adhere to the maximums in the fee schedule, and the Midwest Mutual administrators did not regard their liability as open-ended.**

All six prepaid plans covered preexisting legal problems. With the exception of Legal Services for Seniors, all plans excluded class actions or appeals. In practice, none of the plans handled any cases involving **major litigation or nonroutine problems**, although such matters were not specifically **excluded from coverage.**

Because the administrators of a prepaid plan must establish the schedule of benefits prior to the effective **date of the plan, the six** prepaid plans in the study **had special problems** complying with Legal

Services Corporation regulation Section 1620 regarding priority-setting.

The regulation contemplates an ongoing flexible system that identifies community needs and develops a service delivery system that takes into account input from staff, board members and client representatives.

In the context of prepaid plans, the administrators, boards and client representatives were expected to identify the needs and interests of the target population so the schedule of benefits could be tailored accordingly. None of the six prepaid plans was able to develop or implement viable priority-setting systems during their grant periods, and some project staff and board members were unwilling to comply with the regulation. They argued that the concept of priority-setting did not fit well into the prepaid model, since the model required that certain essential elements be established before the start of operations and that the schedule of benefits remain fixed during the period of coverage.

While there was limited ability to adjust the schedule of benefits during the specified period of coverage, the plan administrators were expected to go through a priority-setting process before developing the schedule of benefits for a future period of coverage.

c. PREMIUMS OR CONTRIBUTIONS

In the private sector, prepaid plans are offered on the basis of a fixed premium or contribution per member as a condition for enrollment and participation in the plan. This procedure is related to the insurance principle. The premium is paid, in effect, to purchase a policy that guarantees the members, during the period of coverage, legal services to the extent defined in the schedule of benefits. The

insurer sets the premium by calculating an anticipated utilization rate and cost of providing **services on** the basis of actuarial **analyses**. As in all insurance plans, there **is an element** of risk. This is borne by **the insurer** or providers, **or can be shared between them**.

The risk factor implies that if the group's actual utilization and **costs exceed** the total premium dollars, the insurer and/or provider will **bear a loss**. On the other hand, if the **group's** actual utilization and **costs are as anticipated** or lower, then **the insurer** and/or provider will **recover a profit**; or, **in the case** of nonprofit **organizations**, the **"excess"** premium dollars may be applied **against future operating costs** to **reduce future premiums** or may be **returned to members as a rebate or dividend**.

Of the **six prepaid plans** in the study only two -- **Barnett, Jones** **b Seymour and Midwest Mutual** -- based their operations on premium dollars. The other four **plans received grants on the basis of budgets for staff salaries, overhead expenses, legal fees and other operating costs**.

The two plans **based on the premium concept** were both administered by Midwest **Mutual Insurance Company**. In both, **the schedule of benefits offered was basically the same as is offered** to private groups. Both **plans were able to realize profits from** their **Delivery Systems Study grant**.

d. ADMINISTRATION

The administrator of the prepaid plan is responsible for ensuring that members receive services to which they are entitled and that attorney providers are available to deliver services and are compensated for their work. The administrator also manages the plan's funds. In

fulfilling these functions, the administrators of the six prepaid plans in the study were required to operate in compliance with the Legal Services Corporation Act and regulations, as well as with Corporation fiscal management and reporting requirements. All six plans had difficulty with the Corporation regulatory scheme, particularly the requirement that projects be governed by a policy board consisting of a specified number of attorneys and clients eligible for service. The prepaid plans had existing corporate structures that were not easily adapted to Corporation requirements, and the prepaid projects were unwilling or unable to meet requirements for board composition, election processes, autonomy, authority and activity levels. The administrators of three plans were reluctant to comply with Legal Services Corporation's financial reporting requirements, stating that their fiscal operations were protected from disclosure as "proprietary" or "privileged information."

e. LEGAL EDUCATION OF MEMBERS

The purpose of membership education in the prepaid plan is to ensure that members know they are covered by the plan, understand the schedule of benefits and the process by which legal services may be obtained and use the services when legal needs arise. This task was approached in a variety of ways.

For example, Barnett, Jones & Seymour hired an outreach worker to enroll members and to educate them about the plan. As of December 1, 1977, the plan was experiencing a 17 percent utilization rate. The Legal Services Corporation staff notified Midwest Mutual and Barnett, Jones & Seymour that the grant was being underutilized, and Barnett,

Jones & Seymour agreed to take steps to correct the problem. Contacts were established with local social services agencies, and agency personnel who dealt with persons with legal problems referred them to Barnett, Jones & Seymour where they were enrolled and received services. The utilization rate increased considerably as a result of the referral of new members with preexisting problems. In addition, Barnett, Jones & Seymour instituted a legal checkup system, which boosted the utilization rate to nearly 100 percent. All members received a legal checkup to uncover problems and provide some preventive legal education. The \$40 fee charged by Barnett, Jones & Seymour for this service was covered by the plan.

Prepaid Legal Services of Kansas sent notices to all medicaid cardholders about their membership and entitlements. Notices were published in the local newspapers, television announcements were made and contacts were established through the legal community and social agencies in order to inform other low income persons who were automatically included in the membership group. In Virginia, Midwest Mutual anticipated a utilization rate of 30-35 percent. The actual rates were 14 percent in Norfolk and slightly over 30 percent in Roanoke.

Membership education requires a delicate balancing of two competing interests. On one side is the interest of the administrator-insurer to preserve the premium fund and to avoid overutilization and depletion of the fund. On the other side is the interest of the member to receive legal services that have been paid for under the plan. This balancing of interests becomes particularly difficult where the persons responsible for making decisions about membership education are also acting as the insurers or administrators of the plan, and where the profit motive is present.

In private prepaid plans, membership education involves less conflict. Plans that involve "true groups" normally have group leaders or other representatives who have an interest in making certain that members know about their entitlements and are satisfied with the plan. In voluntary enrollment plans, where the members pay the premium and elect to join the plan, the member's self-interest becomes the motivating factor.

f. PROVIDERS

The administrators of all six prepaid plans found that many private attorneys were interested in participating in prepaid legal services programs for the poor, even if they had to bear some risk of loss or agree to a reduced fee schedule.

The Barnett, Jones & Seymour and Legal Services for Seniors plans developed fee schedules with hourly rates and flat fees or maximums for different kinds of cases. Group Legal Services negotiated fees on a case-by-case basis as matters were assigned to panel attorneys. In the Idaho State Bar and Prepaid Legal Services of Kansas plans, participating attorneys billed their "usual and customary" fees. Midwest Mutual entered into an agreement with each attorney, defining "usual and acceptable" fees on the basis of each attorney's hourly rate and/or maximum allowable fees for specific case types.

The fees paid by the six prepaid plans appeared to be acceptable to participating attorneys, even where the hourly rates or per case fees were lower than what attorneys normally charged. The Legal Services for Seniors fee schedule, for example, had a basic hourly rate of \$40, whereas the usual hourly rate for similar cases in the area was

\$50 to \$75. However, panel attorneys said they would participate in the plan as long as the lower rate had some realistic relationship to their overhead expenses. Even in the Idaho State Bar plan, where only 65 percent of billings were paid during the latter half of 1979 because the plan was in financial difficulty, most attorneys continued to accept referrals from the project.

The experiences of the prepaid plans in the study suggest, however, that over the long term, providers may not be willing to accept the risk of overuse. The administrators of the Idaho plan felt that their system of placing the risk of overuse on individual attorneys in a large, open panel would not be workable in the long run.

A different conclusion might be reached where a closed panel is used. For example, Barnett, Jones, 6 Seymour accepted the risk of overuse and found their participation profitable. The risk was acceptable because Barnett, Jones & Seymour was handling all of the cases under that plan. The large volume of cases enabled the firm to develop expertise and systems for more efficient case-handling and a spreading of the risk over a larger group of clients.

P. PRO BONO

The pro bono model tested in the Delivery Systems Study was designed to utilize private attorneys willing to provide legal services to eligible clients without charging fees. The model had the primary objective of establishing systematic pro bono referral systems and support mechanisms. Pro bono project staffs could do case and client screening and intake, recruit volunteer attorneys, provide training to participating attorneys, and handle administrative tasks. The staff members could also provide legal services.

1. DESCRIPTION OF THE PRO BONO MODEL

Although proposals for only one type of pro bono model were solicited, the following three specific submodels emerged from the responses to the solicitation.

- Pure pro bono referral. This submodel had a small administrative staff performing intake and screening services, recruiting volunteer attorneys and referring eligible clients to attorneys on the basis of attorney specialty, preference, geographic location or other pertinent factors.
- Pro bono with staff. This submodel operated in a manner similar to the pure pro bono, except that staff represented some clients and devoted a substantial amount of energy and resources to providing training and technical assistance to volunteer attorneys.
- Pro bono with staff as co-counsel. The distinguishing characteristic of this submodel was the co-counsel relationships that the project staff maintained with the volunteer attorneys. Project staff performed all of the basic functions of the model -- intake and eligibility screening, recruiting volunteer attorneys, training and project administration, and, in addition, functioned frequently as co-counsel in all or most cases referred to volunteer attorneys. The staff also provided some services to clients.

2. PRO BONO PROJECTS IN THE STUDY

There was one pure pro bono referral project in the study:

The Volunteer Legal Services Program of the San Francisco Bar Association was a pro bono referral project serving the city and county of San Francisco, an area covered by a legal services program. The project was sponsored by the San Francisco Bar Association. The recruitment efforts of the project were directed to all practicing attorneys in the area, and there were approximately 700 attorneys on the panel. The project staff, which consisted of the project director and a secretary, conducted intake, made eligibility determinations and referred clients to volunteer attorneys on a rotation basis. In addition, the staff conducted training seminars and held special interest clinics. The project provided general legal services to eligible clients.

There were three pro bono projects with staff:

The New Hampshire Pro Bono Referral System was sponsored by the New Hampshire Bar Association to provide general civil legal services throughout the state. Although its geographic coverage included the entire state, the project focused attention on the rural northern counties in order to supplement the efforts of the statewide staff attorney program, which had difficulty in serving those counties. The project staff consisted of a project director, a paralegal, a law student and a secretary. Client intake and eligibility determination were handled by the project staff by phone over a toll-free line. Staff also provided some advice by telephone. All members of the New Hampshire Bar were recruited to join the pro bono service, and approximately 700 attorneys agreed to serve on the panel. The project developed a comprehensive case manual for use by participating attorneys.

The Volunteer Lawyers Project of the Boston Bar Association was designed to provide general legal services. The project identified its service area as the city of Boston, which is also served by existing legal services programs. The staff consisted of a project director, an attorney, paralegals, a law student, an office manager, an intake secretary and a bilingual secretary. Intake and eligibility determinations were made by project staff. The staff also conducted screening of the client's legal problem prior to referral and produced training and resource materials available to volunteer attorneys. There were approximately 700 attorneys on the pro bono panel.

The Volunteer Lawyers Project of the Legal Counsel for the Elderly used retired attorneys and other members of the private bar to provide civil legal services to elderly clients in Washington, D. C., and other members of the legal services to elderly which is also served by another legal services program. Participation was open to all practicing attorneys in the Washington area, including private, government and corporate lawyers. Approximately 660 attorneys agreed to serve on the panel. The pro bono project staff consisted of the project director, a managing attorney, an administrator, a paralegal and a legal secretary. Intake and eligibility determinations were conducted by the project staff. The project produced training manuals and support materials for volunteer attorneys and used lay volunteers in community education and outreach activities. Staff members and volunteers also provided legal assistance using home visits.

The two pro bono projects with staff primarily acting as co-counsel were:

Bet Tzedek (House of Justice) served the communities of Beverly/Fairfax and West Hollywood in Los Angeles. Although the services of a staff attorney program were available in the community, most of the Bet Tzedek clients were elderly Eastern European Jewish people who felt unable to communicate with attorneys who could not speak their languages and did not share their culture. There were approximately 55 attorneys on the pro bono panel, selected for their ability to understand the particular problems of the client population. The project staff consisted of a project director, a director of litigation, a paralegal, three law students, a legal secretary and an administrative assistant. Intake and eligibility determinations were made by the project staff, and the project director and director of litigation served as co-counsel to the volunteer attorneys in all cases. Although the project provided general civil legal assistance, its caseload was heavily weighted toward landlord-tenant matters.

Community Law offices served Harlem and East Harlem in New York City, an area covered by another legal services program. The 300 volunteer attorneys on the panel were drawn principally from Wall Street and Park Avenue law firms. The project provided general civil legal services. The project staff consisted of a project director, a managing attorney, three attorneys, two law students, two paralegals and three administrative assistants. Intake and client eligibility determinations were made by project staff. Volunteer attorneys were responsible for the handling of their assigned cases, but the staff served as co-counsel on many cases, especially nonroutine matters such as complex housing cases.

3. PRO BONO PROJECT OPERATIONS

The staff responsibilities and functions of an organized pro bono project may be classified into six categories: (a) recruitment of volunteer attorneys; (b) identification of project priorities; (c) client outreach, intake and eligibility screening; (d) matching clients with panel attorneys or directly representing clients; (e) followup and quality control; and (f) fiscal management.

a. RECRUITMENT OF VOLUNTEER ATTORNEYS

Since pro bono projects must rely on the willingness of attorneys to donate their professional time, all project staffs gave special attention to the recruitment and retention of volunteer attorneys. Pro bono projects have open panels; therefore, all members of the bar may participate. In some projects, staff efforts were directed toward recruiting attorneys with special expertise. In the Boston, Bar project, immigration law experience was in great demand; Bet Tzedek, serving an elderly Eastern European Jewish community, sought bilingual attorneys. Recruitment methods used by the pro bono projects included, but were not limited to, letters of endorsement signed by prominent members of the bench and bar, media advertisements and personal contact. In New Hampshire, the Chief Justice of the State of New Hampshire Supreme Court and an associate justice of the Superior Court of the State of New Hampshire signed letters encouraging all members of the bar to participate as volunteer attorneys for the New Hampshire Pro Bono Referral System. In Massachusetts, a similar letter from the Chief Justice of the Massachusetts Supreme Judicial Court was sent to recent bar admittees.

Only one project, Bet Tzedek, limited its **recruitment methods** to personal contact by the project staff, but this reflected the project's decision to **operate** with a **small core** of dedicated volunteers instead of a larger pool of participants. The Bet Tzedek **board and staff** believed that a **small, stable group** of volunteer **attorneys was more** appropriate for their co-counseling approach. **However, other** projects found that **having a larger** attorney pool **was not an obstacle to good** service.

Training **was an integral** part of the **recruitment** effort, as well as a necessary quality **assurance** tool. Participating attorneys had **access to free training sessions in many instances**, in return for which they accepted **cases in the subject areas** covered in **the training**.

The projects' **recruitment efforts also had to address the seasonal** unavailability **of volunteers**. Several projects **noted that** volunteer participation **slackened at least twice a year -- in August** when courts **are often closed and attorneys are on vacation, and again at the end** of the year around the holiday **season**. **At these times**, project staffs often increased their direct legal **services**. **Otherwise, it was necessary** to recruit **a pool of volunteer attorneys large enough to ensure** **replacements for vacationing** participants.

It is **important** to retain volunteers attorneys over a substantial period of time in order to provide a consistent level of service and to reduce administrative time spent on attorney **recruitment**. By offering training **programs in substantive law areas as well as** providing other support by the pro bono staff, the projects **were able** to maintain panels of sufficient size.

b. PROJECT PRIORITIES

All pro bono projects operated in areas that were served by other legal services **programs**; therefore, the study did not test pro bono as the sole provider of legal services in a particular area. All projects established caseload priorities directed at either supplementing the **services provided by staff attorney programs or meeting specific client needs**. An example of the latter is Bet Tzedek, whose elderly Jewish immigrant clients did not use the local staff attorney program because of language and cultural barriers. In establishing -their priorities, project staffs and policy boards considered a number of factors including:

- Review of the operations of the other legal services programs in the area, with the objective of complementing or supplementing their coverage, both in substantive legal matters and in geographic coverage. The New Hampshire project directed much of its effort toward the sparsely-settled northern part of the state, which the staff attorney program had difficulty in reaching. A toll-free telephone number was used to encourage client utilization.
- Discussion with clients, community, and bar groups regarding the special needs of the target populations, as exemplified by Bet Tzedek.
- Ongoing review of case types. In San Francisco this type of review uncovered a marked increase in landlord-tenant problems, and the project set up a twice-monthly clinic to handle these cases.
- Consideration of private attorney skills and knowledge. For example, community Law offices recruited most of its attorneys from large Manhattan firms. They were able to handle complex housing and real estate matters, including the renovation and financing of tenant-owned buildings.

c. OUTREACH, INTAKE AND ELIGIBILITY SCREENING

The pro bono projects used client outreach efforts to establish visibility in the client community and to establish a referral network

with other community-based organizations and social service programs. These activities included staff involvement in community organizations, **media exposure, and employment of full-time social workers and community consultants.**

Each pro bono project engaged in community education efforts to advise potential clients of their legal rights and to assist them in identifying their legal assistance needs. The efforts included speeches and workshops conducted by volunteer attorneys, appearances on radio and television talk programs, public service announcements and encouragement of referrals by providing information and training about legal services for the staff of social services agencies.

The Washington, P. C. project visited senior citizen centers to do outreach and client intake. The San Francisco project used special-interest clinics, such as the one for landlord-tenant problems. In Boston, paralegals visited neighborhood centers to reach those who could not travel to staff attorney program offices or to the downtown pro bono project office.

Pro bono projects paid special attention to intake and screening to ensure that volunteer attorneys were not sent cases that were poorly prepared or outside of the attorney's expertise. The intake process was used to define the legal problem, gather necessary information and present it to each panel attorney to facilitate the processing of cases.

All projects believed that a comprehensive approach to intake served the **interests** of the project, the attorney **and the** client, since it conserved attorney time, made pro bono work less cumbersome and led

to prompt disposition of cases. It also often uncovered legal needs that were not well articulated by clients.

In all of the projects, intake was done by project staff, who reviewed financial eligibility and distinguished between legal and nonlegal problems. The latter were referred to other agencies whenever possible. Staff attorneys or paralegals then gathered detailed information regarding the client's specific legal problems and often did preliminary research before presenting the cases to volunteer lawyers.

In most of the projects, the decision to accept a case was made by a staff attorney or the project director. In the Boston project, such decisions were reached at staff meetings held three times a week. At Bet Tzedek, a trained volunteer handled client screening and an attorney conducted the interview to determine whether the person's case should be handled.

d. REFERRAL SYSTEMS AND CLIENT SERVICES

All projects tried to match client needs with attorney skills and availability and to distribute cases evenly among participating attorneys. In making referrals, the projects considered not only the clients' legal problems, but also the location and availability of transportation, language problems or other communication handicaps, institutionalization and age and physical handicaps. The projects also considered the attorneys' expressed interest in certain types of cases, their attitude toward clients, their communication skills and their office location, as well as their general experience or special expertise. Where appropriate, some project staffs provided clients with advice or assistance to enable them to handle their problems pro se.

As noted, the New Hampshire project used a toll-free telephone line to answer client inquiries and to handle intake screening. It also encouraged volunteer attorneys to use the telephone to consult with clients who would have to travel great distances in order to see the attorney in person. The preparation of wills, for example, lent itself to this approach.

Most projects were able to match client and attorney with a few telephone calls. One to six calls were considered a normal effort. Community Law Offices in New York, however, reported an average of 30 calls to find an attorney.

e. QUALITY CONTROL

Pro bono projects used a number of methods to monitor case progress and promote quality service. Among the most common were:

- Systems to track open cases, allowing the project to contact panel attorneys when progress on a case appeared to be slow.
- Review of case closure forms to determine what work is done for clients.
- Response to client inquiries and complaints. On occasion, attorneys were removed from the volunteer panel when investigation revealed that the quality of service provided or attorney attitudes were a problem.
- Technical assistance in the form of brief banks, pleadings, forms and, in the Boston and New Hampshire projects, comprehensive training manuals containing both substantive and procedural information for volunteer attorneys.
- Training programs in substantive legal areas, provided free of charge for participating attorneys.
- Intake and referral procedures, designed to gather sufficient information about the case so that a volunteer attorney could start work on it immediately.

- Co-counseling, which provided close staff contact with all aspects of a case from beginning to end. This method was used on every case by Bet Tzedek, and regularly by Community Law Offices.

f. BUDGET AND FISCAL MANAGEMENT

Organized pro bono projects are not without cost, despite the fact that the major service -- legal assistance -- is donated by panel attorneys. There are, however, office, staff and support costs that are incurred by even the most modest pro bono effort. Recruiting, training, technical assistance, and community education and outreach are minimum requirements for an effective program. The programs that used staff for service delivery required additional financial support. In addition to overhead and operations, funds are also necessary to pay for litigation fees and out-of-pocket expenses incurred by volunteer attorneys. However, the accounting systems required to manage project funds were relatively simple for pro bono programs, since there was no need to establish encumbrance systems to track payments of legal fees to private attorneys.

E. LEGAL CLINIC

The concept of the legal clinic as a delivery **system emerged during** the late 1960s. Legal clinics **were intended** to deliver **legal services** to moderate and low **income persons** at low cost by handling a high volume **and concentrating** on relatively **low cost and routine matters such as** **uncontested divorces** and simple wills.

Although the Legal **Services** Corporation Act did not identify the legal clinic as **a model to be studied**, **the Corporation decided to** include it in the study **because the concept paper** solicitation **process** **showed that there was** interest in the model. **Twenty-one proposals to** **test legal clinics** **were received from the two solicitations.**

1 DESCRIPTION OF THE LEGAL CLINIC KIDEL

The legal clinic **model, as it was defined for the study, was** **characterized** by the following **key elements**: (a) **services to be provided** by a core **of attorneys supplemented by paralegals, law students and** **other support personnel**; (b) **high volume of cases that lend themselves** to routine, **standardized practice, such as uncontested divorces, simple** **wills, landlord-tenant and administrative agency matters**; (c) **the use of** **standardized forms, word processing or computerized systems and self-** **help education -- all of which could reduce staff time and costs of case** **handling; and (d) payment on a fee-for-service basis.**

2. LEGAL CLINIC PROJECTS IN THE STUDY

Two grantees **were** funded in the second year of the Delivery Systems Study **to test the** legal clinic model.I

The Association of Neighborhood Law Clinics (ANLC) **was headquartered in Boston, Massachusetts, and served as an umbrella organization for 11 independent neighborhood law offices serving clients on a reduced-fee basis.** It was organized in 1978 after the Delivery Systems Study solicitation, through the efforts of the directors of Greater Boston Legal Services, the local Lawyers' Committee for Civil Rights Under Law and local private attorneys with backgrounds in poverty or public interest law. The Association was funded to serve an urban-suburban four-county area that included the city of Boston. The project hired a small administrative staff consisting of a nonlawyer administrator and a secretary, who performed oversight functions including payments to the clinics and handled intake and referrals to the 11 participating legal clinics.

The Santa Cruz Community Legal Clinic was a nonprofit organization in Santa Cruz, California, founded in 1975 to provide reduced-fee legal services to moderate and low income persons. The Legal Services Corporation funded this clinic to provide general legal services -- with some emphasis on family and domestic relations matters -- to poor persons in Santa Cruz County. The county includes the cities of Santa Cruz and Watsonville and surrounding rural areas. There were 10 persons on the clinic staff: the project director, a part-time staff attorney, three paralegals, three legal secretaries, a receptionist and an administrative assistant.

3. LEGAL CLINIC PROJECT OPERATIONS

a. **RECRUITMENT OF ATTORNEYS AND STAFF**

The 11 clinics **in the Association of Neighborhood Law Clinics** had 33 **attorneys** with **an average of three attorneys** per clinic. The attorneys in each clinic (or law office) had substantial **experience in** poverty law. **When the Association was formed**, participation of the individual **law offices was based on the interest and commitment of the**

1. There were substantial differences in how **these two** clinics operated. The consequence of funding only two legal clinics is that no definitive conclusions can be reached in the study about applying the clinic model to services for poor people.

firm's attorneys to representing poor persons. Each clinic was required to meet five of six criteria:

- Location in a low overhead office
- Intake concentrated toward low income clients, or maintenance of a written sliding fee schedule
- An hourly rate of \$25 or less
- Use of paralegals and law students
- Use of standardized forms to reduce costs
- Location in a low income area.

The Santa Cruz clinic was staffed with approximately four attorneys supplemented by paralegals and other support personnel. The salaries of all but three employees (the clinic director, one secretary and the part-time attorney) were publicly funded through the local CETA program.

b. PROJECT PRIORITIES

Both clinic projects provided general civil representation to poor persons residing in geographical areas served by other legal services programs. The Association of Neighborhood Law Clinics worked in concert with other Corporation-funded programs including the staff attorney programs in the area, a pro bono project funded under the study and law school clinical programs, to supply a full range of routine services to eligible clients. In addition, the Association established emergency service to clients and service to the Hispanic population as its priorities.

The Santa Cruz clinic also received referrals from the local staff attorney program in its area. The staff program emphasized law reform work and handled appeals and complex litigation, matters not handled by the clinic.

c. OUTREACH, INTAKE AND ELIGIBILITY SCREENING

After initial outreach efforts to inform the target population about services under the grant, the Association of Neighborhood Law Clinics became inundated with requests for services. Thereafter it terminated any further outreach efforts. The Association's staff usually conducted the initial screening of applicants by telephone to determine financial eligibility and the nature of the client's legal problem, then referred eligible persons to the participating law offices. Cases were accepted only after the client had been interviewed by an attorney at a participating law office.

In Santa Cruz, a receptionist conducted intake and eligibility screening in person at the clinic's office, then assigned clients to staff attorneys or paralegals.

d. REFERRAL SYSTEMS AND CLIENT SERVICES

Clients of the Association were assigned to attorneys on the basis of client needs, including office location, attorney specialization or expertise and language skills. Although Massachusetts law does not lend itself to procedures in family law areas that could cut service cost, the law offices in the Association attempted to function within the parameters of the Association's overall goal of providing low cost service to low income persons. In addition, the clinics engaged in impact case work, and in some instances, such impact work was provided pro bono.

The Santa Cruz clinic staff developed systems to handle most of its landlord-tenant cases in a routine manner. The bulk of its caseload, however, was in the family law area. Under the study grant, the clinic handled only dissolutions involving contested issues relating to custody,

support or **abuse**. (The Santa Cruz clinic did handle uncontested dissolutions for its private sector clients.) The clinic also limited the number of wills prepared with grant funds.

e. QUALITY CONTROL

Case review systems were not developed by the Association of Neighborhood Law Clinics for the individual law offices. Each participating law office had its own method of quality control.

The quality of work in the Santa Cruz clinic depended on the skills of the individual attorneys. Little training and supervision of staff existed. This contributed to high staff turnover and adversely affected staff efficiency and the quality of case-handling.

f. BUDGET AND FISCAL ADMINISTRATION

The 11 participating law offices in the Association of Neighborhood Law Clinics submitted bills to the administrative staff for payment on a fee-for-service basis. The Association adopted a fee schedule that provided a \$25 per hour rate and maximum fees for certain kinds of cases .

During its first year of operation, the Santa Cruz clinic operated on a fee-for-service basis. Staff time spent on cases covered by the grant was recorded, and monthly statements were submitted to the Corporation pursuant to a fee schedule. The fee schedule provided for a \$25 per hour rate and for maximum or flat fees for specific case types. This payment system was discontinued in 1979. The clinic's 1979 grant was based on an annual budget covering salaries and overhead expenses attributable to services for Corporation clients.

F. VOUCHER

1. THE VOUCHER CONCEPT

The Delivery **Systems Study** funded one voucher model. After nine months of operation, it was converted to a pure judicare project.

The change reflected a developing realization on the part of the project staff, project policy board and the Delivery **Systems Study** staff that, in operation, this voucher project differed very little from the open panel, pure judicare system. The payment vouchers did not have any measurable impact on the behavior of clients or attorneys and proved to have only symbolic value.

This conclusion was anticipated in concept papers developed in 1975 by Leonard **Goodman** of the Bureau of Social Science Research and in 1976 by Fred **D. Baldwin** of Syracuse Research Corporation. The first difficulty they identified -- as did others during the course of the design development -- was the lack of a definition of a voucher legal services program.

A voucher, **per se**, is defined as "a certificate entitling its recipient to goods or services of some specified type or dollar value."¹ The food stamp is a common, successful example of a voucher. It achieves what Baldwin notes is the chief goal of any voucher: "The voucher enables its recipient to participate more freely in the open market for the good in question, assuming an open market exists."

1. Dr. Fred D. Baldwin, "The Role of Vouchers in the Legal Services Corporation Delivery **Systems Study**," a paper prepared under contract with the Legal Services Corporation, August 1976.

As Baldwin and others noted, legal services are not the **same** as food; the need for them is more elastic, and there is no real uniformity of product or **market-determined price for such services**. **An open market** does not exist.

The study design settled on two versions of the voucher model: an experiment to test client choice of various delivery approaches, and **a grant to a group or organization representing the poor**. In the **client choice version**, **a designated group of poor persons receives vouchers having a fixed dollar value to purchase legal services from any existing organization, for example, a staff attorney program**, prepaid plan, legal clinic or individual **lawyer or law firm**. Individual recipients of the vouchers may determine what service to purchase and which legal services organization or attorney to use. In the **client organization version**, **a group or organization representing eligible clients receives a grant to provide legal services to its members or a designated segment of the poor**. Requests for services are processed through **an intake center operated** by the client organization. The eligible clients set priorities in the type **of services and the amounts to be allocated to different types of cases**, and the grantee refers clients to existing legal services organizations or to members of the private **bar who will handle the cases**.

In order to know whether voucher **is a viable system for legal services to poor people**, it is **necessary to know the answers** to three questions:

- **Did the model attract potential sponsors?** The answer proved equivocal, since only **five proposals** were received and **one was funded to test a client choice version** of the model.

- Will the vouchers be used by clients to negotiate fees?
The demonstration settled on a negotiated fee schedule -- not too different from a pure judicare model -- rather than permitting clients to negotiate fees, as a true voucher project would require.
- Can, and should the voucher project work in conjunction with an established legal services staff attorney program?
The voucher project in the study gave clients the option of seeking counsel from private attorneys or from the local legal services program. But payment for vouchers was made only to private attorneys.

2. THE VOUCHER PROJECT

The Windham Regional Community Council (WRCC) of Willimantic, Connecticut, a community-based organization serving 10 townships in a predominately rural area of the state, was funded to operate a voucher project. An estimated 8,000 persons in the area had incomes at or below the poverty level, and they included large numbers of working poor. They, and persons receiving unemployment compensation, were to be the prime targets of the voucher project.

Approximately 60 attorneys were in private practice in the area. The project staff contacted all of the attorneys and invited them to participate in the voucher project, requiring only that participating attorneys be licensed to practice in Connecticut and have offices within five miles of the targeted area. Approximately 30 attorneys agreed to participate. Attorneys signed contracts with the project, stating that they would accept referrals and adhere to the project's fee schedule and policy guidelines. The project adopted a fee schedule that set maximum fees by case category (for example, \$100 for a bankruptcy proceeding, \$35-55 for a will, and \$350 for a divorce).

The creation of a panel of attorneys and the adoption of a fee schedule were, in themselves, departures from the voucher model. Theoretically, the voucher should have been a simple "bearer" voucher. No contracts, including fee schedules, should have been negotiated with attorneys, and clients should have bargained in the open marketplace for services. The project staff said, however, that such a situation would not have worked in their small community. The staff felt that unless they contacted private attorneys and obtained their agreement to participate in the project, relations between the project, community and bar would be disturbed; clients would end up in the offices of attorneys who did not want to handle voucher cases and the project would be regarded as being poorly administered. For these reasons and to control costs -- a panel system and a fee schedule were developed. The fee schedule was adopted out of a concern that clients who were not good bargainers might be charged higher fees than those the staff could negotiate with attorneys.

Operation of the voucher project was simple. Potential clients were screened for eligibility by the project staff and were given a choice of attorneys from the panel list. Clients were given a voucher for the value of the required service, which was determined according to the fee schedule. The project staff designed the voucher to look somewhat like a check with the intent of providing clients with "self-image reinforcement;" that is, the client carried the voucher personally to the attorney and used the voucher for payment of services. The attorney then returned the voucher to the project with information about the services provided and was paid on completion of the case.

Unanticipated additional fees could be paid on approval by the project director. When services were provided to a voucher client by the local staff attorney program, payment was not made. The project expected to serve an average of 25 clients each month and within four months had nearly reached that level.

A problem arose quickly: client selection of attorneys was more difficult than anticipated. The voucher model had been funded as a means of testing client choice. WRCC believed that the model would lead to increased client choice and control over legal services providers. The project director of WRCC believed that by providing clients with vouchers and giving them the flexibility in selection, private attorneys would have greater incentive to serve and be responsive to low income persons, and "constructive competition" would be promoted among providers in the target area.

Approximately half of the clients were able to make a choice regarding an attorney; that is, they knew (or knew of) at least one participating attorney and were able to make a choice on that basis. The other half of the project clients did not know, or know of, any attorneys and could not make unassisted choices. The project staff initially used a rotation system to direct clients who had no preference in attorneys. Because this procedure ran directly counter to the purpose of the voucher model -- to test client choice -- it was halted. Thereafter, clients were given vouchers without an attorney's name, together with a list of attorneys willing to handle case problems similar to theirs. When an attorney was selected -- by whatever means the client chose -- the voucher was completed and returned to the office.

As the project continued, it became clear that it was not functioning according to the voucher model. The WRCC staff concluded that it was unrealistic to expect clients to bargain with attorneys for legal services and fees, and that all too often, clients simply lacked the knowledge needed to choose attorneys. The project staff and policy board, as well as the staff of the Delivery Systems Study, reviewed the project's experiences and determined that it was, in effect, functioning as a judicare project. In June 1977, the project director stated, "We are, to all intents and purposes, an open panel system with strict contracts and symbolic vouchers distinguishing us from the other judicare approaches." Thereafter, in September 1977, the project's policy board voted to convert the project to a pure judicare project. The Legal Services Corporation agreed to this change, and the test of the voucher model ended after one year of operation.

APPENDIX B

DELIVERY SYSTEMS STUDY
LEGAL PROBLEM CATEGORIES

DELIVERY SYSTEMS STUDY LEGAL PROBLEM CATEGORIES

TNCOE MAINTENANCE

AFDC/Other Welfare
Food Stamps/Commodities
Social Security
55I
Unemployment Compensation
Workman's Compensation
Black Lung

EDUCATION

HEALTH AND SAFETY

Medicare A Medicaid
Occupational Safety (OSHA)
Other Health

CONSUMER/FINNACE

Bankruptcy and Debtor Relief
Contracts/Warranties
Unfair Sales Practices
Credit Access
Collection (Including Repossession/Deficiency/Garnishment)
Loans/Installment Purchase (Other than Collection)
Public Utilities
Other Consumer/Pinsece

Job Discription
Wage Clair
Other Employrnt

FAMILY MATTERS RELATED TO DISSOLUTION

Divorce/Separation/Amulaent

FAMILY MATTERS OTHER THAN DISSOLUTION

Custody/Visitation
Support
Parental Rights Termination
Adoption
Name Change
Paternity
Guardianship/Conservatorship
Spouse Abuse
Other Family
Willa/Estate

MOOS DIG - DOVE I T SUBSIDIZED

Federally Subsidized Housing Bights
Public Horsing

HOUSING - OTHER THAN GOVEIIDORIT SUBSIDIZED

Horovaership/Real Property
Landlord / Tenant (Other than Public Housing)
Other Housing

JOVO (ILE)

Delinquent
Neglected/Abused/Dependent
Other Juvenile

INDIVIDUAL RIGHTS

Immigration/Naturalization
Comaitment
Prisoner's High"
Other Individual Rights

TORTS

MISCELLANEOUS

Incorporation/Dissolution
Indian/Tribal
Other Miscellaneous
License (Auto A Other)
Other Administrative

APPENDIX C

TYPES OF CASES HANDLED BY DELIVERY MODELS IN THE STUDY

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DESCRIPTION OF CASES CLOSED BY DELIVERY MODELS IN THE STUDY

This **appendix** provides descriptive information on the cases handled by the models in the Delivery Systems Study. Two types of information **are shown** by model type: (1) **types of cases** closed, by major legal problem category (Figures C-1 through C-7); and (2) reasons for **case** closing (Figures C-8 through C-14).

1. TYPES OF CASES CLOSED

Figures C-1 through C-7 show for each delivery model the distribution of cases in seven case types (income maintenance, private housing, divorce, family cases other than divorce, consumer finance and wills, and all other cases). Each point on the figures represents one project and the location of the point indicates the average percentage of the project's caseload that consisted of cases of a given type. For example, Figure C-1 shows that income maintenance caseloads of staff attorney programs ranged from 4 to 39 percent of their total cases closed.

2. REASONS FOR CASE CLOSING

Figures C-8 through C-15 show for each delivery model the distribution of cases by reasons for closing (advice only, client withdrawal, court action, negotiation, referral after legal assessment, administrative action, no merit to proceed and other legal services). Each point on the figures represents one project, indicating the percentage of the project's closed cases that were closed for a given reason.

For example, Figure C-7 indicates that programs in the staff attorney model ranged between 17 and 61 percent in percentage of their closed cases that were closed by advice only.

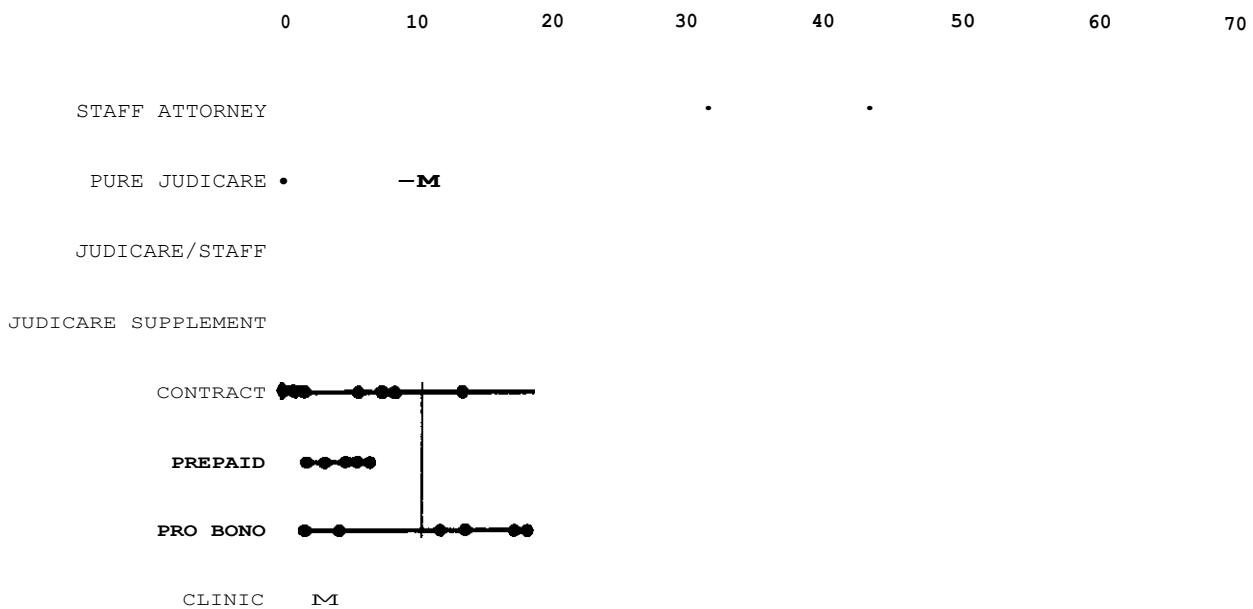


FIGURE C-1: PERCENT OF TOTAL CASES CLOSED THAT WERE INCOME MAINTENANCE CASES (EACH DOT INDICATES THE PERCENTAGE FOR A PARTICULAR PROJECT).

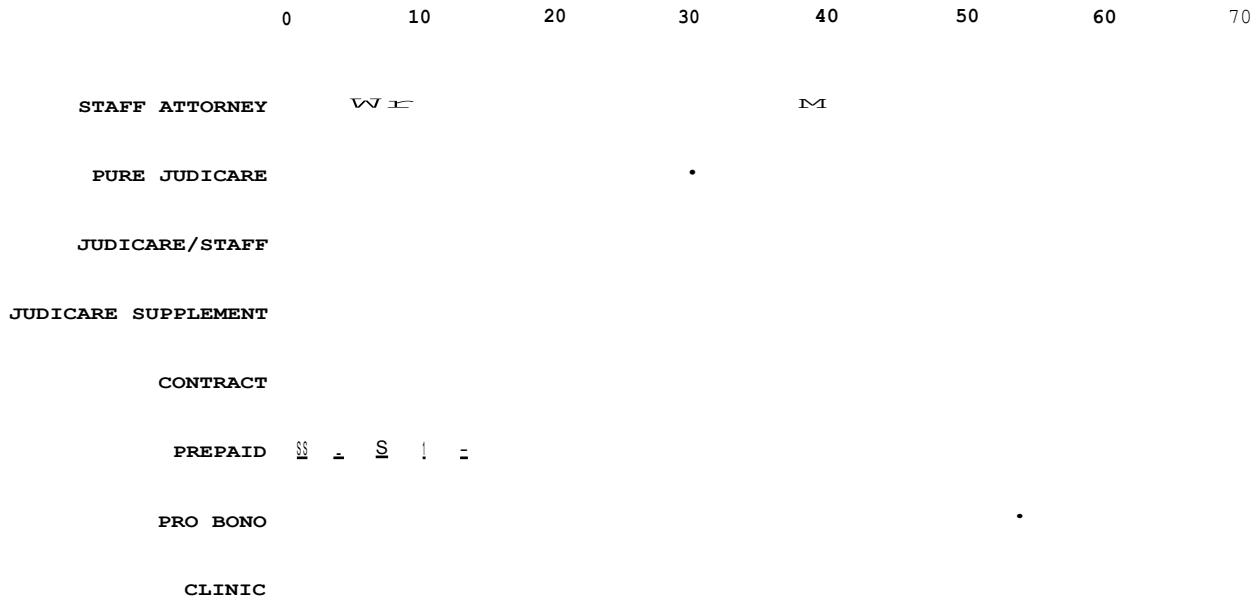


FIGURE C-2: PERCENT OF TOTAL CASES CLOSED THAT WERE NON-GOVERNMENT HOUSING

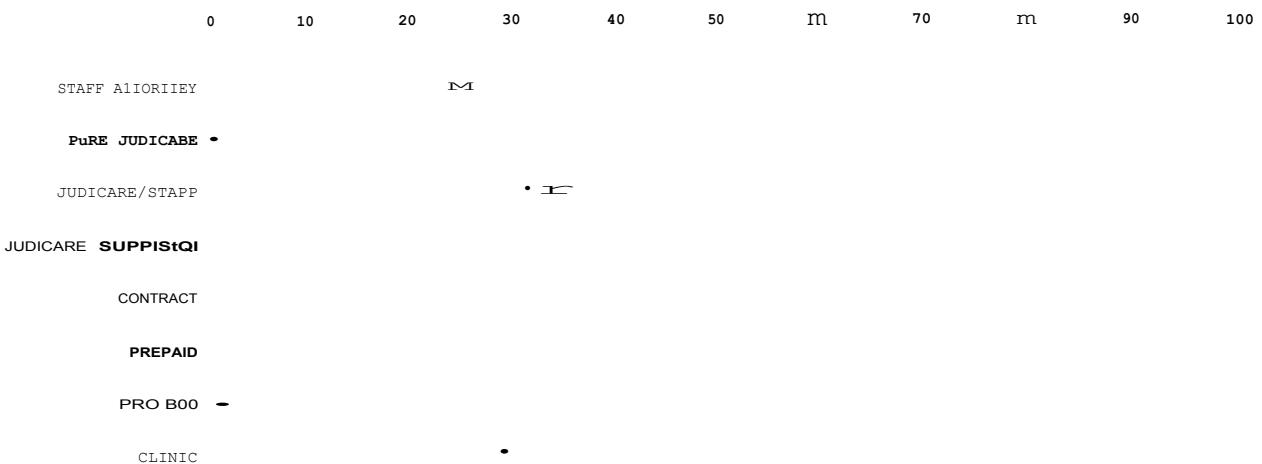


FIGURE C-3: PERCENT OF TOTAL CASES CLOSED THAT WERE DIVORCE CASES

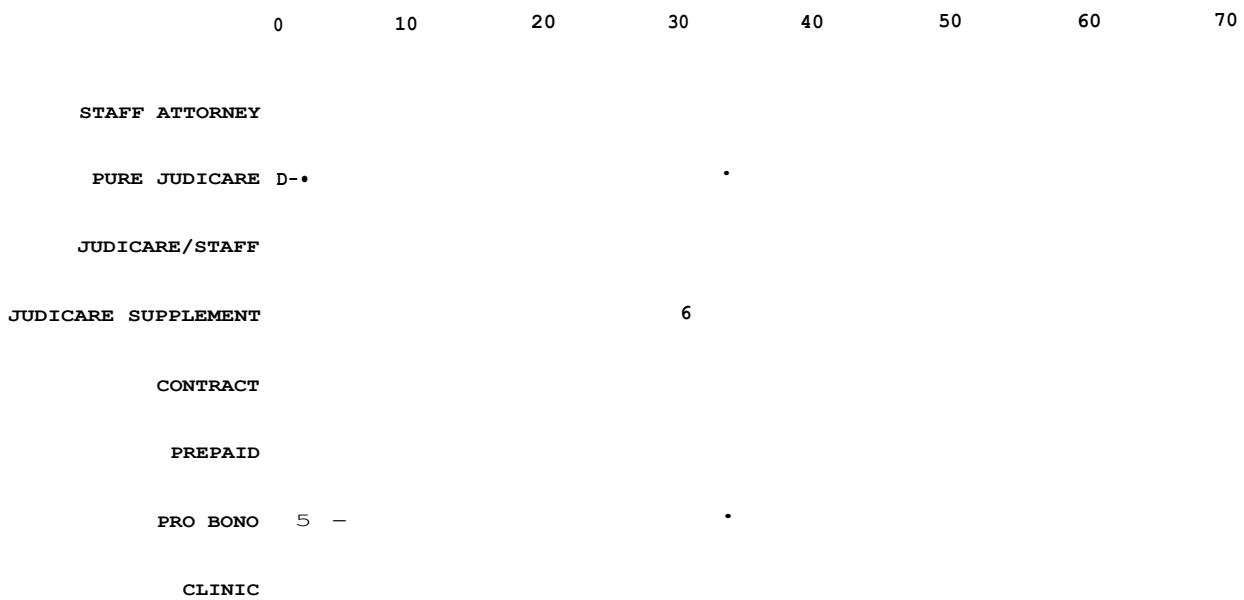


FIGURE C4: PERCENT OF TOTAL CASES CLOSED THAT WERE OTHER FAMILY CASES (EXCLUDES DIVORCE CASES)

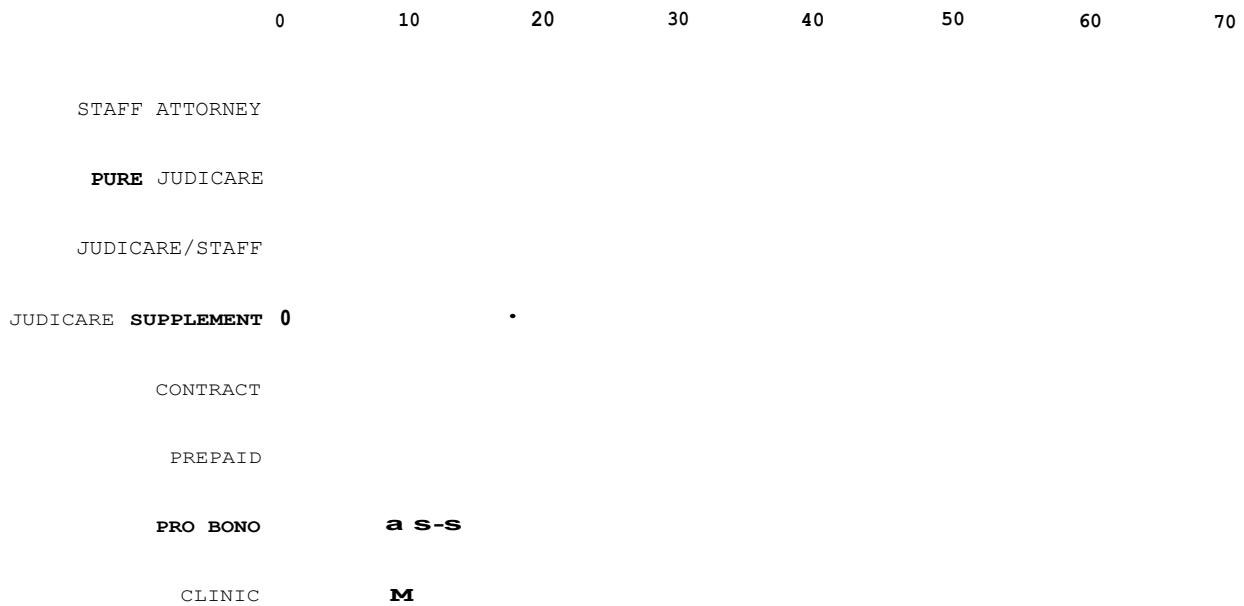


FIGURE C-5: PERCENT OF TOTAL CASES CLOSED THAT WERE CONSUMER FINANCE CASES

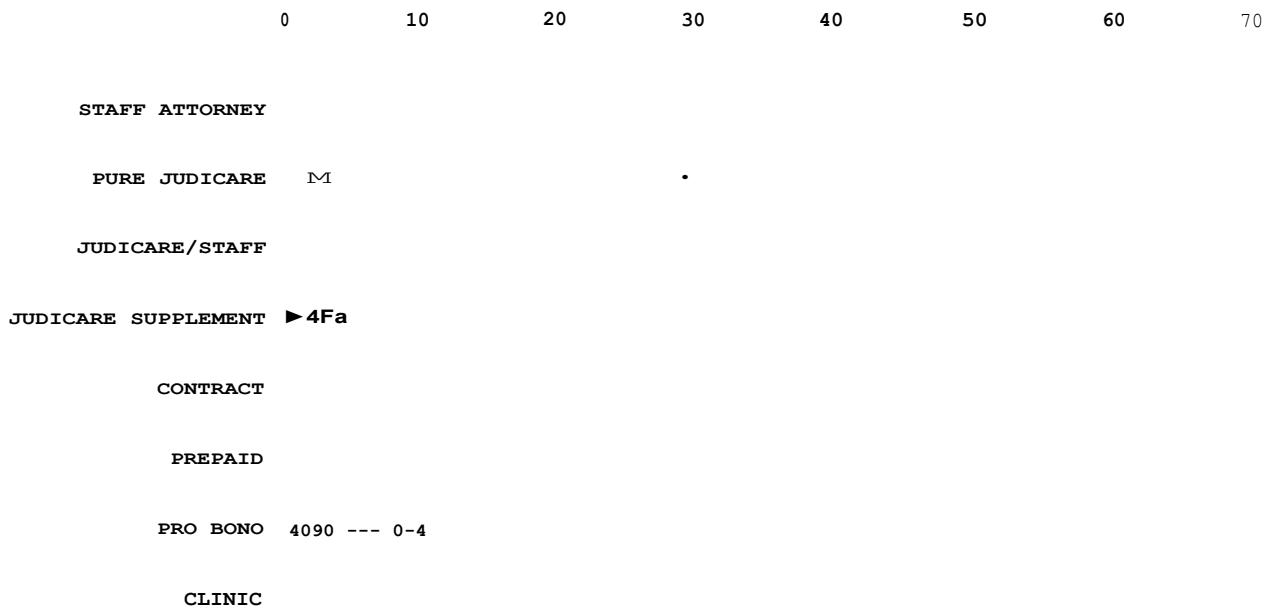


FIGURE C-6: PERCENT OF TOTAL CASES CLOSED THAT WERE WILLS

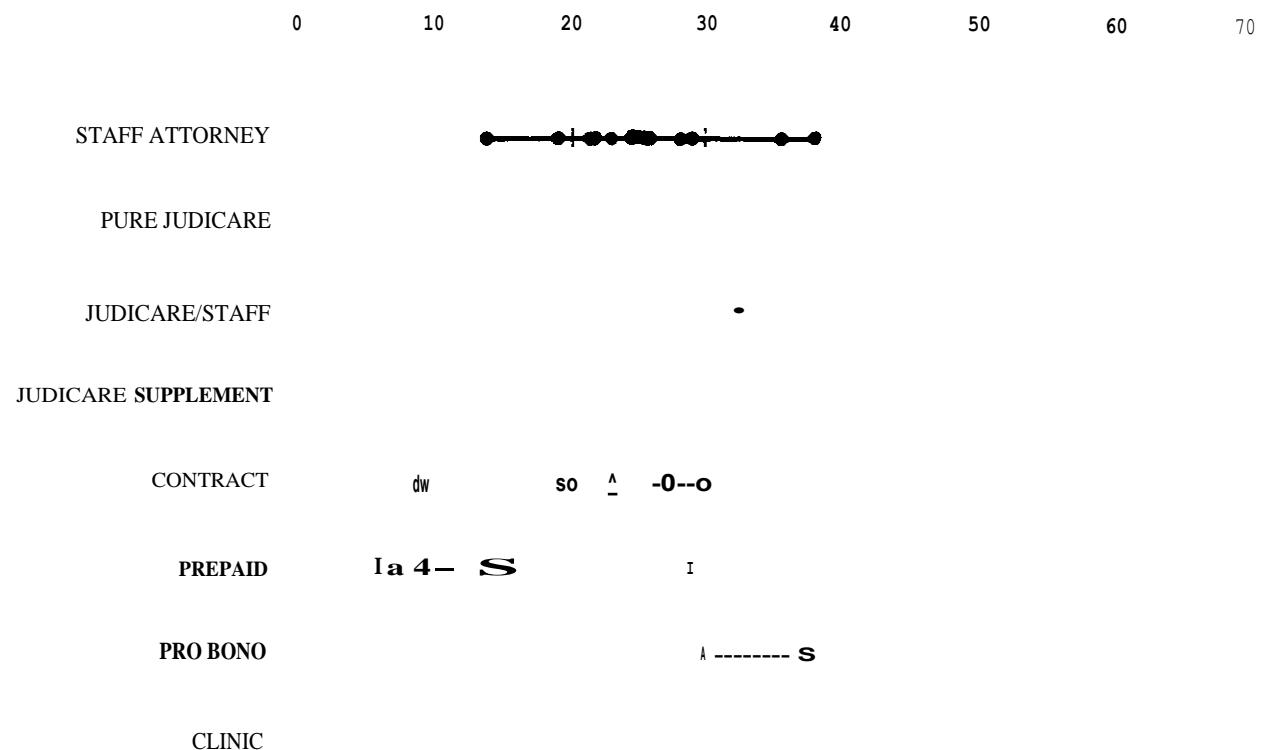


FIGURE C-7: PERCENT OF OTHER CASES CLOSED (NOT INCLUDED IN FIGURES C-1 THROUGH C6)

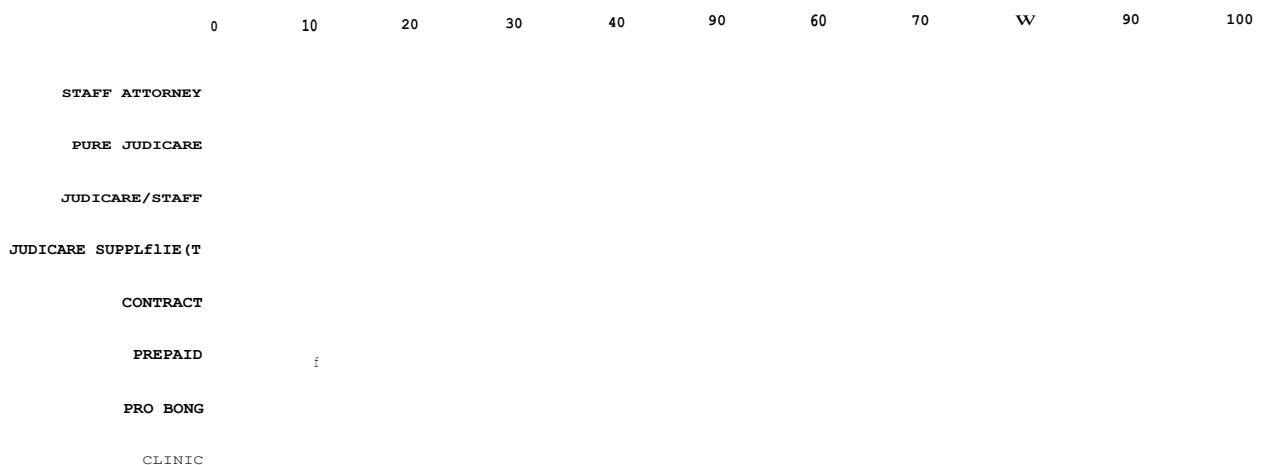


FIGURE C-8: PERCENT OF TOTAL CASES CLOSED BY ADVICE ONLY

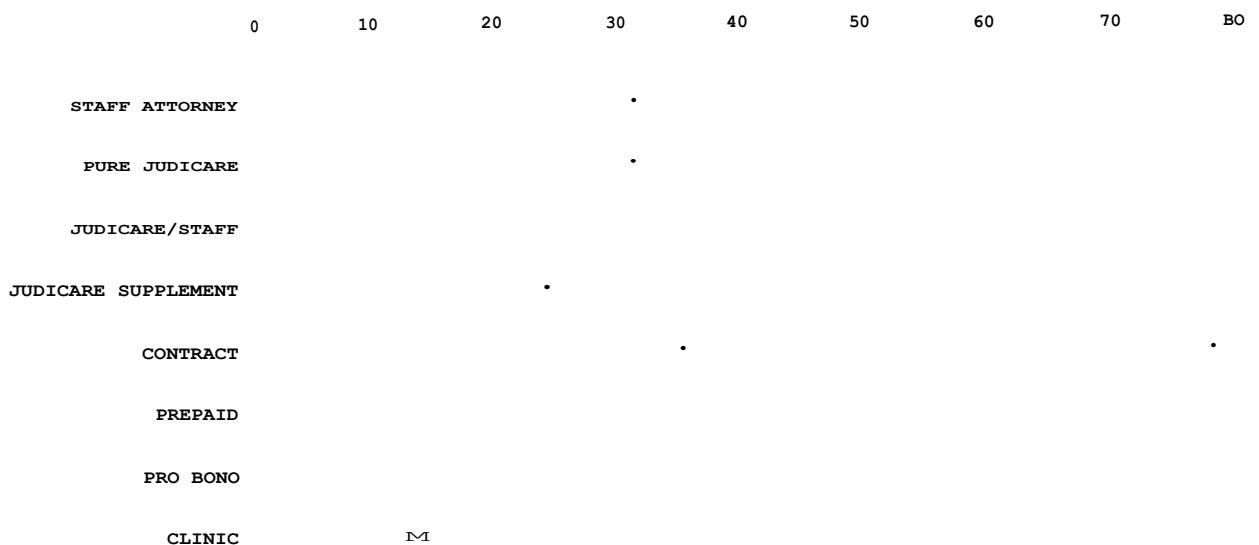


FIGURE C-9: PERCENT OF TOTAL CASES CLOSED BECAUSE OF CLIENT WITHDRAWAL

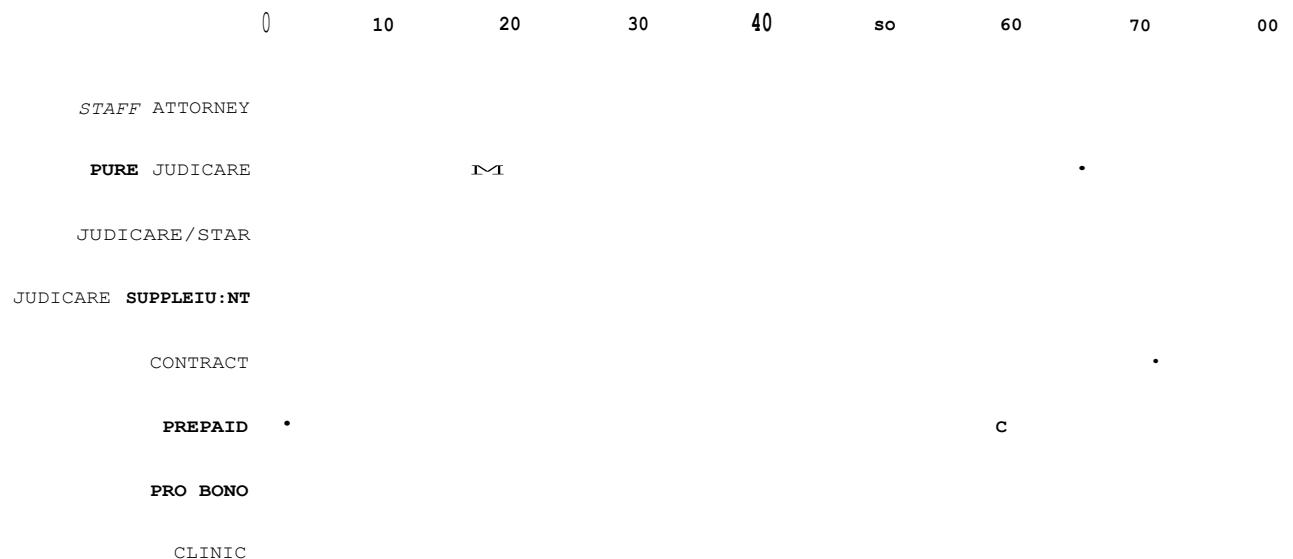


FIGURE C-10: PERCENT OF TOTAL CASES CLOSED BY COURT ACTION

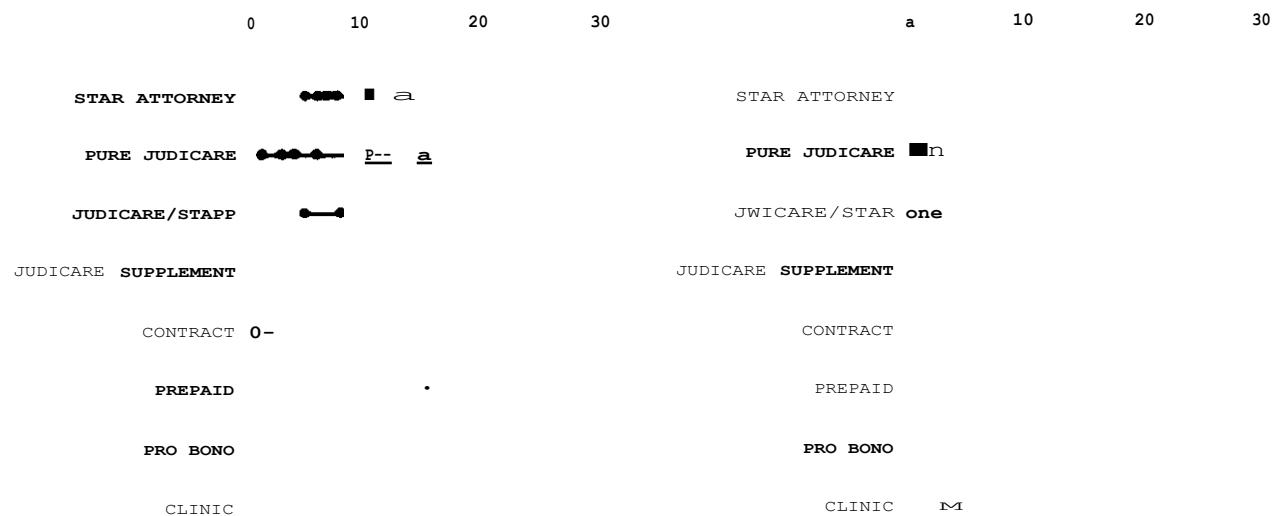


FIGURE C-11: PERCENT OF TOTAL CASES CLOSED BY NEGOTIATION

FIGURE C-12: PERCENT OF TOTAL CASES CLOSED BY REFERRAL AFTER LEGAL ASSESSMENT

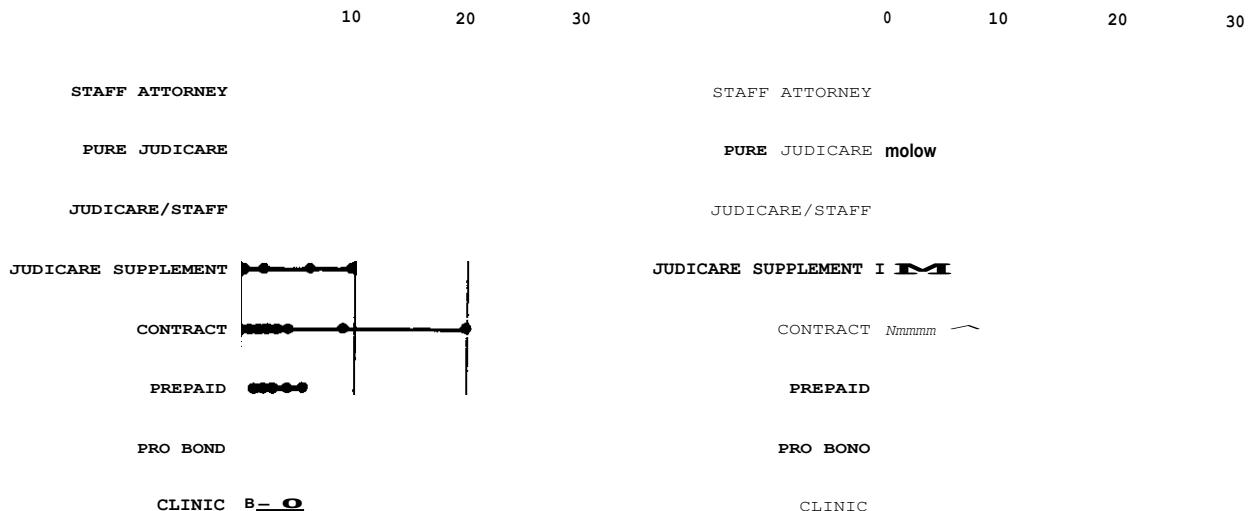


FIGURE C-13: PERCENT OF TOTAL CASES CLOSED BY ADMINISTRATIVE ACTION

FIGURE C-14: PERCENT OF TOTAL CASES CLOSED BECAUSE OF NO MERIT TO PROCEED

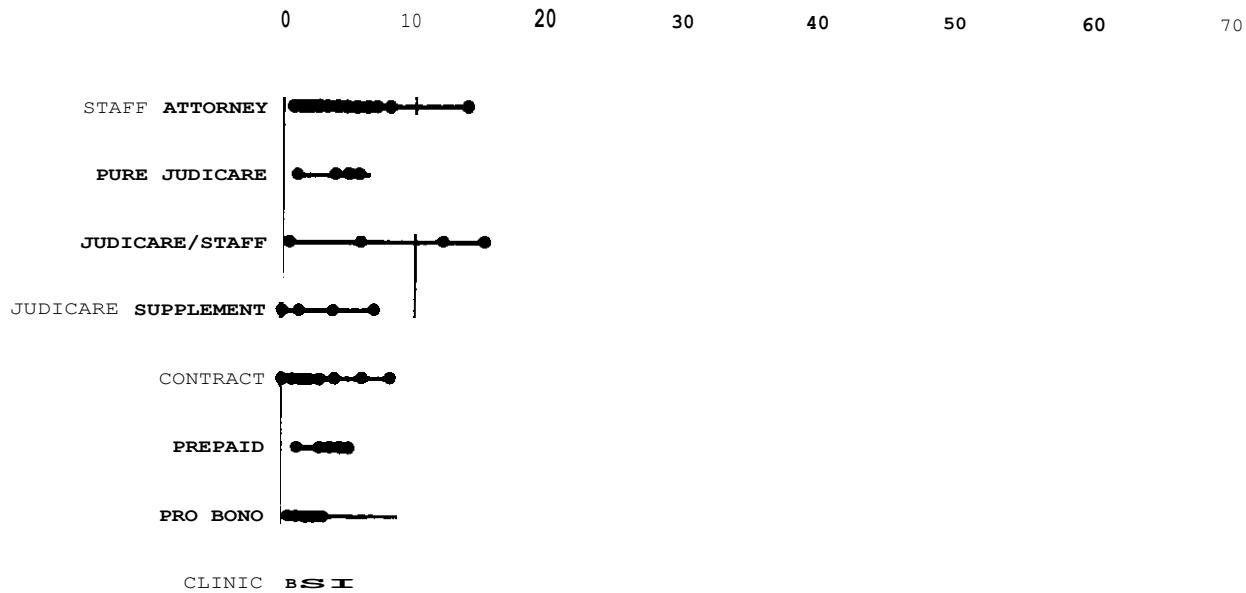


FIGURE 15: PERCENT OF TOTAL CASES CLOSED BY OTHER LEGAL SERVICES (EXCLUDES ALL OF ABOVE CLOSING TYPES)