

The Association of Legal Aid Attorneys

Briefing Paper

LEGAL AID BARGAINING 1990

Legal Aid attorneys struggle to provide quality legal representation to poor people in New York City Courts without the political or financial advantages of their adversaries.

These attorneys, side by side with Local 1199 Legal Aid support staff, guard the rights of the most vulnerable segments of our communities who are too poor to afford a lawyer: neglected and abused children, tenants, the elderly, the homeless, and those charged with criminal offenses -- over 300,000 cases annually. They do their utmost to preserve whatever integrity and justice is available in a legal system upon which our city's complex problems have been thrust.

However, despite their best efforts, committed Legal Aid attorneys are overwhelmed and driven out of the Society by a system that emphasizes quantity over quality. These facts make it impossible for each poor client to receive the same justice enjoyed by the wealthy.

The 1,000 members of the Association of Legal Aid Attorneys -- widely regarded as "the

conscience of Legal Aid" -- believe that poor people deserve the best possible representation. To achieve that goal, we have submitted extensive bargaining proposals to Legal Aid management that are designed to ensure that quality representation takes precedence over quantity representation. These demands are designed to make the Legal Aid Society a more attractive place for attorneys to join and remain, and to provide those attorneys with the resources necessary to fulfill their mission.

Although the Association's contract expired on July 1, 1990, management has refused to accept any of these proposals or to make any counter-proposals of its own.

Therefore, after nearly four months without a contract, the Association is preparing for the possibility of a strike that would cripple the court system, particularly in the area of criminal justice.

The key problems and Association proposals to deal with them are summarized below.

Emphasis on Quality

Currently, huge workloads require attorneys to constantly rush from one courtroom to another, day after day, leaving little time for legal research, motions or investigations.

In this MASH-like atmosphere, attorneys are forced to make painful decisions about which among scores of urgent cases -- involving such dire consequences as eviction, child placement or imprisonment -- needs their attention the most.

In order to improve the quality of representation, the Association has proposed hiring additional support staff to more effectively process subpoenas, motions and other work, better quality training and resource materials, a police abuse referral program, dramatic changes in the oppressive brief "quota system" that operates in the Criminal Appeals Bureau and a much stronger overall quality of representation clause. Moreover, the Association has proposed that attorneys be permitted to use their professional training, knowledge and

experience in planning the most rational use of the Society's resources.

Job Security

1990 witnessed the first layoffs of Legal Aid attorneys in fifteen years, due to an attack by the State Office of Court Administration on the Society's Juvenile Rights Division. In this process, subjective criteria used to determine who would be laid off, management's failure to give more than a week's notice to those affected, and its initial refusal to comply with the transfer rights contained in the

13 Astor Place, New York, NY 10003-6980 (212) 674-4188, 673-5120 FAX: (212) 475-6091
Michael Z. Letwin, *President*/Annette DePalma, *Vice President*/Martha Conforti, *Secretary*/Stephen Dean, *Treasurer*
R. David Addams, *Executive Director*/Isabel A. Lobelo, *Office Administrator*/Ron Luciano, *Office Secretary*
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existing contract created deep demoralization and a dramatic increase in the rate of attorney attrition.

To address this experience, the Association has proposed an entirely new job security clause which would provide for fuller management disclosure of the necessity for and time of layoffs, a fair and objective transfer and layoff policy based on reverse seniority and affirmative action criteria, and greater recall rights following layoffs.

Salaries & Benefits

High attrition rates are due in large part to uncompetitive Legal Aid staff attorney salaries, which range from \$29,000 to \$60,000. In contrast, salaries for deputy public defenders in Los Angeles range from \$39,279 to \$89,485.

The Society is also uncompetitive with local starting salaries at such public law offices as the DC 37 Legal Services Plan (\$33,276), the City Human Resources Administration (\$34,400), the Office of the Appellate Defender (\$35,000), and the Corporation Counsel (\$36,000). Low staff attorney salaries also dramatically contrast with management salaries so high that the Society refuses to disclose them.

Poor salaries and benefits have served to push out particularly more experienced senior attorneys, who are increasingly replaced by newer attorneys.

To make the Society more attractive to both new recruits and experienced attorneys, the Association has proposed a salary increase of fifteen percent, or parity with Legal Aid's Federal Defender unit, whichever is greater, and an extension of the annual step increase beyond the current 13-year limit.

In addition, the Association has proposed improved pensions and health benefits; more flexible transfers, worktime and dependent care; and an increase from two to three chances to pass the bar examination before termination.

Affirmative Action

Eighty-five to ninety percent of the Society's clients -- but only 18 percent of

the Society's staff attorneys -- are people of color. In the ranks of management, the number drops to 9 percent. *And some Society "prestige" units remain entirely white.*

Much higher levels of minority representation in such organizations as Legal Services of New York (30 percent), the Washington D.C. Public Defender (39 percent) and the San Francisco Public Defender (45 percent) make clear that the Society has failed to do its utmost to recruit, promote and retain people of color.

This failure is inconsistent with the standards of the American Bar Association for organizations which represent indigent people, and feeds what the New York Judicial Commission on Minorities reports to be a widespread perception of "a predominantly white court system meting out 'justice' to litigants who in significant numbers are Black, Hispanic, Native American and Asian American..."

In order to distinguish Legal Aid attorneys from this perception, the Association has submitted a detailed program to improve affirmative action at Legal Aid, including a modest initial goal that thirty-three percent of legal staff and management be people of color, and an extensive set of procedures to realize that goal through the appointment of affirmative action officers and full involvement of attorneys in the affirmative action process.

Sexual Orientation Discrimination

Pursuant to the 1988 contract, a joint Association/Management committee appointed by the Executive Director of the Society found extensive institutional discrimination at the Society against lesbian and gay attorneys, particularly in such areas as benefits, and that as a result lesbian and gay attorneys do not feel welcome at Legal Aid. However, management has failed to accept the committee's recommendation that all such discrimination be immediately ended. It is the Association's view that such discrimination can no longer be tolerated, and that the Society must do

whatever is necessary to make itself habitable to all attorneys, regardless of their sexual preference.

Health and Safety

The physical conditions under which Legal Aid attorneys and support staff work are atrocious. Most Society offices are characterized by filth, unsanitary restrooms, inadequate ventilation and air conditioning, broken elevators, overcrowding, roach and mice infestation, insufficient equipment and pitifully lax security.

Attorneys also work daily in crowded, dirty, suffocating court "pens," which greatly elevate the risk of contracting diseases such as tuberculosis from clients who have been kept for days, weeks or months in inhumane conditions.

Needless to say, when such conditions make attorneys' jobs much more difficult, stressful and dangerous, clients are not well served and attrition rates soar. The Association has therefore proposed detailed objective health and safety standards to which attorneys and support staff should be entitled.

Board Representation

Many of the above problems result from the fact that the governing body of Legal Aid, its Board of Directors, is dominated by wealthy New York law firms whose benefits, conditions of work, salaries, clients and interests have little in common with those of Legal Aid attorneys and support staff, or with the average New York resident who finances the Society. The Association has therefore proposed that it be directly represented on the Board.

Conclusion

We believe that the best possible Legal Aid representation is essential to every piece of the City's "gorgeous mosaic," for only when the rights of each is respected will there be respect for the rights of all.

But that representation can only exist when New Yorkers are involved in ensuring that the Society performs its mission of protecting the rights of poor people. We therefore appeal to each and every resident to support the efforts of the Association of Legal Aid Attorneys to make that vision a reality.