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April 23, 2013

Mytrang Nguyen  
Program Counsel  
Legal Services Corporation  
Office of Program Performance  
3333 K Street, NW 3<sup>rd</sup> Floor  
Washington, D.C. 20007-3522

Re: Response to Draft Program Quality Report for Legal Aid of Arkansas, Inc.  
Recipient #604020

Dear Ms. Nguyen:

Please accept this letter as comments from Legal Aid of Arkansas, Inc. (LAA), responding to the March 25, 2013 draft report for the Legal Services Corporation's (LSC) program visit to LAA during the week of October 29-November 2, 2012. I am transmitting this letter by email and an original will follow by snail mail forthwith.

LAA would like to thank each member of the team that visited our program for the professionalism and courtesy they displayed. The visit was organized and implemented in such a way as to have minimal impact on LAA operations.

We very much appreciated the opportunity to visit with and engage the team regarding issues relating to the quality delivery of civil legal services to low-income Arkansans. The visit and subsequent report has proven invaluable to management and staff as we move into the third year of our five year strategic plan. The assistance is much appreciated, and the suggestions are, as a whole, well taken.

We are confident in our program, staff, board and the current direction of our work. We consider ourselves a very strong public interest law firm that thrives on innovation. The site visit has invigorated us to continue with determination on the path we have chosen, and use your recommendations as an opportunity to grow stronger and better.

With this letter, I will identify minor factual errors and provide some substantive comments regarding recommendations. If a specific finding or recommendation is not mentioned, then it should be considered agreed to by LAA. LAA is confident

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that LSC will consider the information provided in this letter prior to issuing a final site visit report. Comments are in the same order as their counterpart in the draft report.

### Background on the Program Quality Visit

A minor correction is needed in paragraph two of the introduction on page one. The next to last sentence surmises that the team visited six office locations and met with staff from three other office locations, specifically listing Batesville, Helena, and Newport. The team actually met with staff from Mountain View, not Batesville. At the time of the visit, we had a full-time staff attorney and part-time legal assistant in Mountain View, both of which were interviewed in person. A part-time legal assistant working in Batesville was not interviewed.

### Service Area Overview

The second sentence under the Service Area Overview heading may be misleading. While LAA does operate a statewide medical-legal partnership based in Little Rock, that partnership includes two locations, not five. We do have five medical-legal partnership locations, but three are independent MLP's located in Eastern Arkansas at Federally Qualified Community Health Clinics. They are not directly connected to the statewide MLP at Arkansas Children's Hospital, but the lead attorney at our Children's Hospital location does serve as our overall MLP director.

The last paragraph on page one, carrying forward to page 2, contains a minor inaccuracy. While the Arkansas Access to Justice Report in 2011 did report over 500,000 Arkansans were eligible for legal aid that number was short of reality. The actual number in 2011 was 724,850.<sup>1</sup>

### Organizational Overview

In the second paragraph under this heading, it states that Lee Richardson was hired as executive director on a permanent basis in 2006. This actually occurred in December, 2005.

The fourth bullet point on page 2 is inaccurate as to year. Although the AmeriCorps program did begin in 2010, the year that 15 members were serving was 2011.

### Findings and Recommendations

#### Performance Area One

The last paragraph on page 3 states that the retrenchment process resulted in the loss of 18 full-time staff positions through lay-off or attrition. Only 12 of these positions were full-time while six were part-time. The next sentence states that the Mountain View office was closed. The staff in this office was actually relocated to an outreach location provided to LAA at no costs by the county, meaning a physical presence was maintained in Mountain View.

Under **Finding 2** on page 5, first full paragraph, last sentence, LAA acknowledges the importance of having a process in place to access it's staffing and office decisions in each region

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<sup>1</sup> U.S. Census Bureau, 2011 American Community Survey

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and the Ozark region in particular. A written process will be developed and integrated into the current strategic plan.

Recommendation I.1.2.1 : *LAA is encouraged to continue to lead the legal needs assessment effort with support from the Clinton School of Public Service at the University of Arkansas.*

The needs assessment is now complete and will be published this month and the results shared with LSC. The assessment is strong and has a high confidence level in all areas but in-person engagement with communities and other social service providers. Although the assessment did include focus groups, these sessions were poorly attended. LAA will develop a tool for use by staff and partners to capture needs when conducting community education and outreach, with this information being analyzed on an ongoing basis, to supplement the just completed needs assessment.

**Finding 3**, in part, states that LAA's case statistical reports show that family law cases remain disproportionately high as compared to national averages. While LAA is very aware of this issue, and has labored diligently to address same for most of the last decade, it is important to point out some demographic and other information unique to Arkansas prior to applying national averages as a baseline for what should happen in the state.

First, we will address two issues raised in finding 3, in the first paragraph on page 7. While it is true that housing law cases make up only 8% of LAA closings, consideration must be given to the current status of housing law in Arkansas. For example, Arkansas remains the only state without a warranty of habitability in landlord/tenant relationships. There is simply very little law to apply and enforce in these relationships until legislative changes are made. That being said, the LAA housing law work group has recently received priority in staffing and now has more attorneys and resources than any other LAA work group. While the quantity of cases closed may not change significantly, the underlying substantive work is being planned to have the greatest possible impact on the overall client community.

The other issue raised in the paragraph concerns income maintenance numbers being below the national average. This is explained in part by the number of private attorneys available in the state who aggressively promote their availability to represent clients in social security disability cases.

The larger issue is the dynamics of the demand for family law assistance, that in turn drives the perceived disproportional number of cases closed in that substantive area. It is first important to note that there are no non-LSC public interest law firms operating in Arkansas. The only place for low-income individuals to turn for civil legal assistance is the two LSC funded programs. It is also very important to note that general support in the legal community for pro se in the family area is only now starting to manifest. Indeed, there is still strong resistance in many areas, and almost no official judicial support for pro se.

A magic wand can simply not be waived to reduce the raw number of family law cases reported by LAA. Case acceptance priorities have been tightened again and again in this substantive area,

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to the point that they cannot be tightened any more without refusing situations where potential clients or their children would be in imminent danger. LAA has become incredibly efficient at dealing with family law volume and at this point, there would be no way to tweak the screening process any more without excluding cases that may have overall significance to the client community, or may endanger individual clients in specific cases. Additionally, any further categorical screenings would place an undue burden on eligibility screeners. We would also note that we instituted new helpline screening procedures in mid-2012, and as a result, only 51.3% of LSC eligible cases closed in the first three months of 2013 were family law while 49.4% of completed intakes were family.

We would like to point out that the average time spent on a family law case is substantially less than that spent on a case in other substantive areas. For example, there were 550 cases closed with problem code 37 in the six months from October 1, 2012 to March 31, 2013. An average of 2.06 hours was spent on these cases. During the same period, the average time spent on a landlord tenant cases was 6.05 hours and the average time spent on a collection case was 5.97 hours. Overall, only 42.7% of staff time was spent on family law while 57.3% was spent working on cases in other substantive areas. We think it is important to actually look behind the raw case closing numbers and consider the amount of time and resources being leveraged on each substantive case type to fully understand the dynamics of the work being performed.

Some problems related to family law peculiar to Arkansas that should be considered include:

- Since 1946, Arkansas has historically alternated with Nevada in having the highest divorce rate in the United States, and is currently ranked second.<sup>2</sup>
- Arkansas has the third lowest median age for first marriage, and the highest rate for thrice marriage.<sup>3</sup>
- Arkansas is not a no-fault divorce state. When you merge the fact that fault has to be proven with the lack of universal forms and pro se delivery vehicles for family litigation, including custody, there is nowhere else for low-income individuals to turn for help. The statement in paragraph three on page seven that “Through ALSP, the state has developed effective, easy-to-use pro se family law forms and materials” is very misleading. For example, the divorce forms are only available in fact situations where children, domestic violence, and property is not in issue. Those are not priority cases for LAA and not included in the offending case statistical report numbers.

Finally, although still in draft form, the legal needs assessment just completed in Arkansas by the Clinton School of Public Service shows that the largest self-reported need for legal assistance in the client community, by a wide margin, was help with family law related legal problems. This mirrors the two previous legal needs assessments conducted in Arkansas. Historically, the high rate of family law services is responsive to self-identified client needs. We are encouraged by another finding in the assessment that indicates the legal community as a whole feels that we are meeting the family law need adequately at a rate higher than any other substantive area, and an

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<sup>2</sup> U.S. National Center for Health Statistics, National Vital Statistics Reports (NVSr), Births, Marriages, Divorces, and Deaths: Provisional Data for 2009, Vol. 58, No. 25, August 2010; and prior reports.

<sup>3</sup> <http://www.pewresearch.org/2009/10/15/the-states-of-marriage-and-divorce/>

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overall acknowledgement that the legal community has come to a more clear understanding of our case acceptance priorities in the family area.

Recommendation I.2.3.1\*: *LAA should engage in a process to understand the dynamics behind its persistently high family law cases and develop targeted and workable strategies to address the high volume.*

LAA agrees with this recommendation and submits that it has been fully engaged in an ongoing process to understand the dynamics behind the high percentage of family law cases and that it is, in fact, already engaged in targeted and workable strategies to address the high volume, as indicated above. We would ask that this be removed as a first tier recommendation for the reasons set forth herein.

#### Performance Area Two

The last paragraph at the bottom of page 9 indicates that the HelpLine Manager has been with LAA since 2004. She actually joined LAA in August, 2005.

#### Performance Area Three

**Finding 7** indicates that LAA did not appear to have staff responsible for ensuring the practical implementation of most critical elements of the Legal Work Standards that were previously adopted. The report goes on to indicate that the quality of legal writing samples submitted by advocates was uneven and might have benefited from supervisory or peer review. It surmises that the limited investment in Legal Work and New Attorneys standards is in contrast to our aggressive implementation of our strategic plan. The report appropriately points out that a combination of things aggravate this problem, including the unfilled deputy director position, a sudden influx of new advocates in time-limited employment positions, overextended regional managers, and the litigation directors position not being able to focus on these issues because of maintaining a large caseload.

LAA agrees that it should develop a plan for the immediate implementation of its legal work standards and new attorney training protocols, prioritizing attention to supervisory systems and development of newer advocates and fully embraces the following recommendations:

Recommendation III.1a.7.1\*: *Prioritizing immediate investments in legal work quality which includes:*

- *Working with regional managers and work group leaders to develop creative solutions to entrenched problems of poverty, including use of resources outside of Arkansas to develop and implement solutions;*
- *Collectively focusing on improving the quality of legal analysis and brief writing;*
- *Establishing resources such as a panel or team of experienced volunteer attorneys and legal aid experts who can serve as ongoing substantive resources to LAA work groups and to individual attorneys.*

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Recommendation III.1a.7.2\*: *Assigning clear, upper management-level accountability for implementation of the legal work standards and these recommendations.*

- *As resources allow, hiring for the deputy director position and, in the interim, designating the management team responsible for more closely reviewing the legal work quality of each staff member;*
- *Re-evaluating the director of litigation's current focus.*

Recommendation III.1b.7.1\*: *Creating time for supervisory responsibilities and on-the-job training which includes:*

- *Strategies to decrease the workloads of regional managers including an assessment of caseloads and HelpLine responsibilities;*
- *Strategies for regional managers and case handlers with HelpLine responsibilities to open quality time for more complex work, balancing training and development needs (i.e. work that exposes attorney to mix of advocacy skills and substantive areas) with organizational and client needs (i.e. grant, work group, LAA priorities).*

To begin to address the three recommendations above, LAA has scheduled a management meeting over two days at the end of April. At the meeting we will review the recommendations point by point and develop a specific plan to implement each. That process has already been started as LAA has been advertising for a Deputy Director since early April, 2013. We are being methodical in the hiring process to assure that the appropriate candidate to assist in implementing these much needed recommendations is found.

Our statewide annual conference to be held in October will also be planned to focus substantive and training sessions for all staff on these issues.

It is important to note that while one part of the program report praises the current HelpLine model, Recommendation III.1b.7.1 asks us to develop strategies to decrease HelpLine responsibilities for regional manager and case handlers. While we will work diligently to balance these needs and create the most efficient and effective model, we would ask LSC to understand that without additional resources being available, there is no immediate foreseeable solution that fully reconciles this dilemma. We have discussed the creative use of pro bono assets to alleviate some of the HelpLine pressure on staff, and will continue to pursue that as an alternative.

#### Performance Area Four

LAA agrees that the program would be best served by adopting a reserve policy as suggested in the second full paragraph on page 17. Although financial planning in the past has sporadically included multi-year budget projections, this has not been done on a consistent basis. The board Audit-Finance Committee will be engaged to develop a reserve policy and implement multi-year budget projections, as suggested in Recommendation IV.4.11.1.

As set forth above, LAA is currently seeking to hire a deputy director as suggested in Recommendation IV.3.12.1.

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**Finding 13** points out that LAA is functioning with a very lean administrative staff and should consider and prioritize areas for investment in the near and long term. We agree. This is addressed in Goal 6 of the LAA strategic plan, though a lack of resources has resulted in only partial implementation of aspirations under that goal. LAA hired part-time clerical assistance for the fiscal officer shortly after the program visit, and continues to employ the previous fiscal officer part-time to ease the transition for the new fiscal officer. One option being considered to strengthen human resources and fiscal operations, and alleviate pressure on current staff, is outsourcing payroll and human resources. If this option is considered viable after exploration, it will be presented to the proper board committee for consideration.

Each regional manager and substantive work group will be asked to identify and prioritize administrative needs when developing their annual work plans as suggested in the first paragraph on page 19, and Recommendation IV.3.13.1 will be embraced.

Recommendation IV.7.14.1 sets for that LAA should develop a comprehensive resource development plan in conformity with its strategic plan. We agree. Efforts have been made to strengthen resource development assets over the last six months, including a failed effort to obtain AmeriCorps Vista in this capacity. We now have an attorney employed part-time to focus exclusively on grant writing as opportunities are identified by management. A Development/Grant Specialists job description has been updated and added to the human resources manual, and making this a full-time position within the program is a priority as funding permits.

Thank you for the opportunity to provide our comments to the draft report. If you or any other members of the team have questions about our comments, please do not hesitate to contact me.

We look forward to hearing from you soon with regard to LSC's final report, and will not hesitate to reach out to LSC for technical assistance and suggestions for peer-to-peer exchange as we implement many of the recommendations contained therein.

Sincerely,



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