



LEGAL SERVICES CORPORATION

Office of Program Performance

FINAL REPORT FROM THE PROGRAM QUALITY VISIT

Legal Services Alabama, Inc.

Recipient Number: 601037

April 29 – May 3, 2013

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Legal Services Alabama, Inc. Program Quality Visit Final Report

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INTRODUCTION

The Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a Program Quality Visit to Legal Services Alabama, Inc. (LSA) from April 29 – May 3, 2013. Team members included OPP Program Counsel Tillie Lacayo (team leader) and Mytrang Nguyen, OPP Program Analyst Reggie Haley, and LSC temporary employees Mike Genz, Alan Lieberman and Maureen Syracuse.

Program Quality Visits are designed to evaluate whether LSC grantees are providing the highest quality legal services to eligible clients. In conducting the evaluation, OPP relies on the LSC Act and regulations, the LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. The evaluation was organized to follow the four Performance Areas of the LSC Performance Criteria, which cover needs assessment and priority setting; access to services and engagement with the low-income community; legal work management and the legal work produced; and program management, including board governance, leadership, administration, resource development, and coordination within the delivery system.

The team reviewed documents provided by the program to LSC, including recent applications for funding, technology and PAI plans, workforce analysis charts, and case service and other services reports. The team also reviewed materials requested in advance of the visit, including documents relating to board governance, intake, legal work, case management policies and systems, and the results of an online staff survey. While on site, the team visited LSA's offices in Montgomery, Birmingham, Huntsville and Mobile. The team interviewed program leadership and administration, along with attorneys, paralegals, and administrative and support staff. The team also interviewed several members of the board of directors, judges, members of the state and local bar, staff at community partner organizations, and leadership and board members at sub-grantee organizations.

SERVICE AREA AND PROGRAM OVERVIEW

Legal Services Alabama, Inc. operates nine offices across the state in the following locations: Anniston, Birmingham, Dothan, Huntsville, Mobile, Montgomery, Opelika, Selma and Tuscaloosa. The program also has a satellite office in Gadsden. Its service area is the entire state of Alabama (50,744 sq. miles), which is a mixture of rural and urban areas. Birmingham Huntsville, Mobile and Montgomery are the four large population centers in Alabama. The remainder of the state is rural.

LSA was formed in February 2004 from the merger of three former LSC grantees: Legal Services of Metro Birmingham, Legal Services of North-Central Alabama, and Legal Services Corporation of Alabama. Following the 2004 merger LSA experienced a restructuring and reduction in the number of offices and staff. This was followed by a period of growth, a subsequent retraction in 2007 due to a funding crisis, and further retractions in 2012 and 2013 due to loss of revenue.

The U.S. Census Bureau's American Community Survey¹ 3-Year Estimates reflect that LSA's service area has a poverty population of 738,547. Roughly 5.2% of residents of Alabama speak a language other than English at home and 2.4% speak English less than "very well".²

In 2012, LSA received \$6,051,323 in LSC basic field funding. It does not receive migrant or Native American grants. LSC funding comprised roughly 81% of LSA's 2012 revenue. Despite the fact that LSA experienced an increase in its poverty population since the last decennial census, the increase was less than that incurred by other LSC grantees, and LSA's 2013 LSC funding has decreased as a result of the census adjustments.³ During 2013 the program will receive \$5,799,076 from LSC. LSA also receives funding from local, state, and federal sources, as well as foundations and IOLTA.

At the time of the visit, LSA had approximately 102 staff members, including 58 attorneys in its nine offices. The Montgomery office houses program administration and the largest direct service office. In the 2014 grant renewal application submitted by LSA the month following the visit, the program advised LSC of a restructuring of the executive staff of LSA. The person who was the director of resource development at the time of the visit and who in the past has served as Call Center director has returned to directing the Call Center. The staff person formerly in the Call Center Director position has moved into an open position as a staff attorney and the former director of training has become resource development director. The program explained the changes as follows: "To maximize individual strengths and increase overall productivity at a time when funding cuts are on the horizon, the Executive Director reduced and reconfigured the executive staff. The Director of Training position was eliminated and her duties largely distributed to the Director of Operations and Managing Attorneys."

LSC's Office of Compliance and Enforcement (OCE) conducted a CSR/CMS review of Legal Services Alabama February 12 – 16, 2007 and April 30 – May 4, 2007. A Follow-Up Review (FUR) was conducted by OCE April 4 – 8, 2011. The program's responses in the fiscal portion of the FY2013 funding application were also evaluated by OCE, and it was determined that an appropriate level of fiscal oversight and internal controls had been established. Based upon the 2011 FUR and the program's actions taken in response, the OCE found that there were no significant/material deficiencies as to compliance with LSC Fiscal Regulations and Internal controls and that the program had addressed all prior corrective actions and recommendations satisfactorily.

SUMMARY OF FINDINGS

LSA completed a comprehensive needs assessment in 2012, which involved a telephone survey of Alabamans in counties with high poverty rates, an online questionnaire sent to low-income

¹ The American Community Survey (ACS) is a survey conducted by the U.S. Census Bureau. The ACS has replaced the U.S. Decennial Census as the principle mechanism for generating social, demographic, economic and related data about the U.S. population. The ACS conducts one-year, three-year, and five year surveys.

² 2009-2011 American Community Survey 3-Year Estimates.

³ The census adjustment combined with funding decreases related to the sequestration and rescissions will result in a \$252,247 loss to the program in LSC funding during 2013.

service providers, a focus group, and semi-structured interviews with current and former judges. The top categories of need resulting from the assessment were cases involving children and families, housing, and consumer issues. The program's legal services delivery system is responsive to emerging needs of the client community, including victims of disaster and persons affected by the foreclosure crisis.

The program is engaging in strategic planning, which was underway at the time of the LSC visit; the process includes staff and members of the board of directors.

Interviews confirm that LSA values the dignity of clients, is respectful of their circumstances, and makes an effort to serve them in a linguistically and culturally competent manner. The intake system offers several options for access, including a toll-free Call Center, walk-in opportunities, on-line application, outreach sites, and referrals from community partner organizations throughout the service area. The program's Call Center, which grew out of a hotline that was established in 2005 in the wake of Hurricane Katrina, has decreased in size over the past few years. The Call Center handles less than half of the program's overall intake and does not appear to be operating as efficiently as it could.

Program staff has developed close working relationships with many organizations and agencies in their local communities that assist low-income Alabamans, including domestic violence shelters, homeless shelters, organizations that assist disaster victims, senior centers, and faith-based organizations, among others.

LSA meets its PAI obligation through three sub-grant agreements with Volunteer Lawyers Associations using a pro bono model and through contract attorneys who provide service in more rural areas of the state. The program's relationships with its sub-grantees have at times been strained. Private Attorney Involvement in Alabama involves complex relationships and the balancing of interests of numerous entities and individuals. Tensions exist among the entities involved in pro bono delivery in Alabama and there are widely varying perspectives among LSA and its sub-grantees concerning the nature, genesis and extent of the tensions. Improved communication and coordination to achieve maximum results with limited resources is essential to the sustained success of the statewide pro bono effort in Alabama, and LSA should work with its pro bono partners to achieve that goal.

The executive director has an accomplished background. He has provided steady and firm leadership since taking the helm at LSA during what was a difficult period for the program. He has continued to navigate the difficulties of the economic downturn and diminishing resources. He and his staff are working hard to provide what is, in some places, barebones coverage for an extremely large service area in an era of insufficient funding for legal services.

The executive team consists of the executive director, the director of operations, the director for advocacy, the director of resource development, and the controller. LSA has a solid team of managing attorneys. The program has had significant successes in reaching the client population and providing legal assistance in the aftermath of both natural and man-made disasters. LSA has a talented IT staff and a good technology plan.

The program's 27-member board of directors includes a former chief justice of the Alabama Supreme Court, current and former Alabama Bar Commissioners, a former member of the LSC Board of Directors, and the president of the Alabama State Clients Council. The board is appropriately involved in major policy and program decisions and takes its oversight functions seriously. The board has the following standing committees: Executive, Audit Review, Client Relations, Finance, Governance, Nominating, Personnel, Private Attorney Involvement/Pro Bono, and Resource Development. Board members are conversant with the major issues facing the program and are strongly supportive of the program's mission. The board received training in December of 2012 concerning its fiduciary responsibilities, by-laws, funder requirements, and financial administration. The board has dealt with some extremely weighty issues affecting LSA in recent years, including a financial crisis, staff lay-offs, office closures, and funding decreases. LSA's IOLTA funding has decreased markedly since 2009, and the program suffered a significant loss of LSC funding in 2013 due to the poverty population census adjustments.

The program's legal work management systems ensure the provision of quality legal services to clients. On-site interviews reflect that these systems do not just exist on paper but are adhered to. However, LSA has no written protocols governing the training of new advocates to ensure that they are progressing satisfactorily and should develop such protocols to provide more structured guidance.

The program and its work are well respected by the judiciary and social service organizations throughout the service area. The program has a dedicated staff that provides the client-eligible population in the service area with access to quality legal services. Advocates practice in a variety of forums, including state trial and appellate courts, federal court, and various administrative tribunals. LSA has highly experienced, skilled and capable advocates on staff; however, the program has lost some experienced advocates as a result of recent layoffs. LSA's advocacy has not focused, to the extent that it did in past years, on issues that would benefit a larger number of low-income persons. The program could benefit by relieving the director for advocacy of some of his responsibilities that do not involve coordination the program's advocacy, so that he might devote more time to coordination and oversight of the program's legal work and encouraging and supporting broad-based advocacy.

The program is active in the state justice community and is appropriately engaged with others whose activities have a significant effect on the low-income population, such as the judiciary, the organized bar, government agencies, social service agencies, regional and state legal advocacy organizations, and other civil legal aid providers.

Over the last couple of years the program has received additional funding to assist disaster victims and has been awarded \$1.2 million by the state Attorney General's Office from the mortgage foreclosure settlement funds. Despite some recent successes, the losses have outweighed the gains in the area of resource development. The program needs to focus additional attention on resource development to increase its capacity to provide legal services to the poor within Alabama. Long-range planning and prioritizing resource development will be essential for the continued strength and stewardship of LSA, particularly given the current economic and funding climate.

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

PERFORMANCE AREA ONE. Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.

Criterion 1. Periodic comprehensive assessment and ongoing consideration of legal needs

Finding 1: LSA conducted a comprehensive assessment of the legal needs of low-income Alabamans that was completed in 2012 and resulted in the adoption of the program's current priorities.

LSA's most recent comprehensive legal needs assessment was completed in 2012. The program hired the Alabama State University Center for Leadership and Public Policy as a research consultant to conduct the assessment. The Center worked collaboratively with the executive director, the director of resource development and the director for advocacy. As background prior to conducting the study, the A.S.U. Center reviewed needs assessments conducted by other LSC grantees in states socioeconomically and geographically similar to Alabama and states that had experienced natural and/or environmental disasters similar to those experienced by Alabama. Also reviewed was a 2007 low-income civil legal needs assessment issued by the Alabama Access to Justice Commission. A variety of methods were used to gather information for the 2012 assessment, including a telephone poll of Alabamans in counties with high poverty rates,⁴ an online survey of service providers for low-income populations,⁵ a focus group with the Alabama Disability Advocacy Program, and interviews with Alabama district and/or circuit court judges. The needs assessment results reflected that the areas of greatest civil legal need among low-income persons in Alabama are cases involving children and families, housing, and consumer issues.

Criteria 2 and 3. Setting goals and objectives, developing strategies, allocating resources and implementation of the strategies.

Finding 2: LSA has responded to several new and emerging legal needs and has addressed such needs when they became apparent.

LSA's priorities are reviewed annually by the program. The program's priorities for the 2013 year, based upon the prior year's needs assessment, are Supporting Families; Preserving the Home; Promotion of Economic Stability⁶; Achieving Safety, Stability, and Health; and Serving Populations with Special Vulnerabilities. The program's Client Services and Compliance Manual

⁴ The following Alabama counties, which had the highest reported poverty rates in the state per the 2010 Census, were included in the poll: Wilcox, Perry, Dallas, Sumter, Macon, Bullock, Greene, Lowndes, Chambers, Pike, Montgomery, Madison, Jefferson, Tuscaloosa and Mobile.

⁵ Various public, private, nonprofit and faith-based community organizations in Alabama that are service providers and employ staff who work directly with low-income and economically disadvantaged individuals on a regular basis were included in the needs assessment survey.

⁶ The category of "economic stability", as defined by LSA includes a broad range of legal issues, such as unemployment insurance, food stamps, SSI, bankruptcy, garnishments, and community economic development.

lists core cases for the substantive law areas of domestic relations, housing, consumer and public benefits.

The program responds to emerging needs among the client population. On several occasions in the recent past, LSA has been faced with the challenge of serving numerous victims of both natural and man-made disasters that have seriously affected the client population of the service area. In the wake of Hurricane Katrina, many families fled to Alabama from Louisiana and Mississippi. LSA responded promptly by setting up call centers to assist displaced families in the area. After the BP oil spill occurred, the program rose to the challenge once again by helping victims with compensation claims. LSA has continued to work with other providers in the affected states to address clients' ongoing problems caused by Katrina and the BP oil spill. Over the past couple of years tornados struck Tuscaloosa, Birmingham, and other areas of the state, causing tremendous damage and leaving many persons homeless and in need of assistance with housing, FEMA claims and insurance claims. LSA responded by partnering with other organizations to provide assistance to affected persons. After the tornados of 2011, the program formed a tornado response team of attorneys and paralegals in the four program offices located in the most severely affected areas.

The program responded to the foreclosure crisis by seeking and obtaining funding for foreclosure counseling work and, more recently, by obtaining funds from the national Attorney General mortgage foreclosure settlement to address the needs of persons at risk of losing their homes.

The program utilizes its working relationships with partner organizations to supplement in-house knowledge on emerging client population needs. For example, the local United Ways maintain a statewide database on client service requests, including the needs of the low-income community. LSA regularly uses information in the database as a tool to assess and respond to emerging needs in the community. In addition, the program's Mobile office receives regular input from the client councils and from LSA client board members who belong to the Alabama Statewide Clients Council. A discussion of emerging needs was also included in the program's strategic planning process.

Criterion 4. Evaluation and adjustment

Finding 3: LSA evaluates the program and advocates' productivity and performance on an ongoing basis.

LSA engages in ongoing evaluation of the program, the advocacy efforts of its attorneys and paralegals in its priority substantive law areas, monetary and non-monetary gains and avoidances for clients, and productivity of individual staff members and offices of the program. The director for advocacy prepares an advocacy report on a quarterly basis that details the program's overall accomplishments and highlights office and program victories on behalf of clients throughout the service area. The report is shared with LSA's board of directors at its quarterly board meetings.

Finding 4: The program has undertaken facilitated strategic planning and expects to have its strategic plan in place by the end of the year.

At the time of the LSC visit, strategic planning was well underway at the program, facilitated by Carmody and Associates. The committee working on the process consists of a cross section of staff and board members. The process began with a survey of staff and the LSA board of directors for their thoughts concerning emerging client needs, the future growth of the program, and how LSA might best serve its client population. The following Strategic Planning Workgroups, composed of board members and staff, were established by the committee: Financial Resources, Personnel Resources, and Services & Delivery. The program is also using leadership and management from its sister programs as resources during the strategic planning process. The workgroups met in May of this year. The program's goal is to develop and present a strategic plan to its board of directors for review and adoption at its December 2013 meeting.

Recommendation I.4.4.1⁷ -*The program should consult with external stakeholders as part of the strategic planning process, especially with regard to the work of the Services and Delivery Workgroup.*⁸

Recommendation I.4.4.2 - *The program is strongly encouraged to include in the strategic planning process the development of targeted goals and outcome measures and the allocation of resources that will allow its advocates to identify, investigate, and pursue significant issues that may require more attention.*

PERFORMANCE AREA TWO. Effectiveness in engaging in and serving the low-income population throughout the service area.

Criterion 1. Dignity and sensitivity

General

Finding 5: LSA advocates are respectful of and sensitive to their clients' individual circumstances.

Interviews with program staff, personnel at community organizations, agencies with whom the program works, board members, judges, and others reflect that LSA staff treat their clients with dignity and respect and are sensitive to their circumstances.⁹ One judge interviewed praised LSA advocates for their demeanor with clients and their ability to make the legal process and courtroom procedure more understandable to clients. Staff interviewed showed a steadfast dedication to problem-solving and providing meaningful assistance for individual clients and the

⁷ Recommendations in this report will have a Roman Numeral to identify the Performance Area, followed by three numbers identifying, respectively, the Criterion addressed by the recommendation, the number of the finding and a number designating whether it is the first, second, third, etc., recommendation under that finding. For example, III.2.14.3 designates Performance Area III, Criterion 2, finding 14, and third recommendation under finding 14. There are two levels of recommendations in this report: Tier One and Tier Two. Recommendations that are indicated with an asterisk are Tier One recommendations and are seen as having a greater impact on program quality and/or program performance. In its next Application or Renewal, the program will be asked to report on its implementation of Tier One recommendations.

⁸ As per a recent telephone conversation with the executive director, LSA has begun surveying partner organizations by phone and in person to obtain their input into the strategic planning process.

⁹ One advocate interviewed mentioned that she had grown up in public housing and commented that she knows that "nothing is more important than the roof over your head."

client community. Staff also carry an awareness of Alabama's past and a desire for the program to responsibly and effectively address entrenched injustices in poor communities. LSA as an organization appreciates the importance of cultural competency for staff working with persons from different cultures. LSA staff who work with Vietnamese and Laotian residents of the Bayou that were negatively affected by the BP oil spill attended cultural sensitivity training to help them in their interactions with this special population.

Language Access

Finding 6: LSA's program services, communications and activities appear to be conducted in a culturally and linguistically competent fashion.

The program has an LEP plan, the implementation and review of which is overseen by the director of operations. New employees are introduced to the plan as part of LSA's new employee orientation. The November 2012 LSA Statewide Conference included training on working with LEP populations and on cross-cultural communication.

Alabama has a growing limited English proficient (LEP) population that has doubled from 1990 to 2010.¹⁰ LEP persons now constitute 2.4% of the state's population. Huntsville, Mobile, Birmingham, and environs are the areas of the state showing the greatest number of linguistically isolated households.

Spanish is the most prevalent non-English language spoken by the client population, with the most populous counties for Spanish-speakers being Shelby (with sizeable populations in the nearby counties of Blount, Calhoun, Chilton, and St. Clair), Tuscaloosa, and Baldwin.¹¹ LSA has three bilingual (English/Spanish) staff persons.

LSA also serves significant Vietnamese and Laotian speaking populations that reside in the Mobile office service area and work in the seafood industry. The program works closely with Project Rebound, a nonprofit organization funded through a grant from BP. Project Rebound has Vietnamese and Laotian interpreters on staff who interpret for LSA advocates during meetings with clients. LSA also contracts with Language Line to help supplement its in-house language capacity.

The program has community education materials in Spanish and retainer agreements in Spanish, Vietnamese and Laotian. It uses interpreters at community organizations when it provides services to persons with speaking or hearing disabilities.

Recommendation II.1.6.1: When funding permits, LSA should expand its capacity to serve the growing Spanish-speaking population. This could be accomplished by strengthening community contacts with organizations that serve that LEP population, by recruiting Spanish-speaking volunteers and student interns, and by recruiting for new hires with a view to expanding in-house bilingual capacity in Spanish.

¹⁰ The Migration Policy Institute's tabulations based upon the US Census Bureau's 1990 Decennial Census and the 2010 American Community Survey shows that the LEP population has increased over a twenty-year period from 36,018 to 72,805.

¹¹ Though Alabama's Hispanic population grew 145% between 2000 and 2010, the program noticed a decrease in the population after the passage of Alabama's immigration law in 2011.

Criterion 2. Engagement with the low-income population.

Finding 7: LSA provides extensive outreach to its client community

LSA staff conducts a significant number of community legal education events throughout the state and counted 527 community education events for the most recent two-year period. Community education has included numerous presentations in the areas of elder law, HIV/AIDS rights, housing and tenants' rights, veterans' rights, and income tax and disaster relief, among others. Staff in offices throughout the program also conduct outreach at community partner organizations in the service area, such as Catholic Social Services offices, Project Rebound in Mobile, domestic violence shelters throughout the service area, homeless shelters, and local churches. In addition, a number of the grants received by the program involve significant outreach to the populations served, such as the Neighbor Works, elder law and domestic violence grants.

Despite LSA's community education and outreach efforts, staff, board members, and community partners reported that there are still a number of low-income communities within LSA's service area that are unaware of the existence of the program and the services it provides. The program is working to increase its visibility throughout the state, as evidenced by the extensive outreach and community education conducted.

Recommendation II.2.7.1 - *LSA should consider additional methods through which it might inform potential clients of the availability of its services.*

Criterion 3. Access, and Utilization by the Low-income Population

Finding 8: The program serves clients through nine offices located throughout the service area.

The program has offices in Anniston, Birmingham, Dothan, Huntsville, Opelika, Mobile, Montgomery, Selma and Tuscaloosa. The offices visited by members of the team – Birmingham, Huntsville, Mobile, and Montgomery – were well-located, in generally good condition and professional in appearance. The program is planning to relocate the Montgomery office when the lease expires in October of 2014 and expects to achieve significant cost savings when it does.

Staff report in the pre-visit survey and in interviews conducted during the on-site visit that conditions at one of the offices that the team did not visit – Anniston - are substandard and in serious need of improvement.¹² Information obtained as part of the program evaluation raises concerns that the condition of the office could affect the health and well-being of the staff and clients and staff's ability to work productively in a professional setting.

¹² LSC team members were told that the Anniston office is in poor condition, with mold and mildew problems. Past efforts to relocate the office have, reportedly, been unsuccessful. Among the comments were references to "a bad mold problem", "lights and electrical outlets that do not function properly", "poor wiring", and "bird droppings between the ceiling and the roof". When the executive director was asked about the problem, he indicated that he had no knowledge of it.

The program was forced to close its Florence office during 2012 due to funding decreases. This has stressed the delivery system in the two offices that absorbed the counties formerly served by Florence – the Huntsville and Tuscaloosa offices. The program indicated to LSC staff during the on-site visit that funding decreases and the impact of the poverty population Census adjustments may make closure of additional offices in the future unavoidable.

Recommendation II.3.8.1* - *The program should investigate immediately and address the conditions in the Anniston office that could negatively impact the health of its employees or persons seeking services from the program.*

Recommendation II.3.8.2* - *In the event that future office closings seem likely, the program should develop a plan in advance to ensure that client-eligible persons in the affected area(s) will continue to have access and the same level of service as those persons in the rest of the serviced area.*

Intake

Finding 9: Persons seeking legal assistance from LSA are able to access intake through various portals, including the program’s Call Center. The Call Center currently handles less than half of the program’s overall intake and may not be operating as efficiently as it could. The cases closed by the Call Center decreased from 2011 to 2012.

LSA clients are able to access intake through various portals, including the program’s Call Center, by calling or coming in person to a local office, through on-line application via the program’s website,¹³ at outreach sites throughout the service area, and through direct referrals from community partner agencies and organizations, and the courts.

The program’s Call Center grew out of a hotline that was established in 2005 in the wake of Hurricane Katrina. There were originally four Call Center locations: Birmingham, Huntsville, Mobile, and Montgomery. The Call Center has lost staff and decreased in size in recent years. Funding reductions led to the closures of the Huntsville and Mobile Call Centers. At the time of the LSC visit the Call Center operated as a unified entity from two locations – a statewide location in Montgomery and a much smaller Birmingham location. Staffing at the time of the visit consisted of the Call Center director, a managing attorney, three staff attorneys, two paralegals and three intake screeners in Montgomery, and a managing attorney and two intake screeners in Birmingham.¹⁴ An attorney who coordinates the program’s on-line intake, as well as the paralegal he supervises, are included among the Montgomery Call Center staff. General management of the Call Center has changed since the LSC visit.¹⁵

¹³ At the time of the visit applicants applied on-line by completing and submitting an Adobe Acrobat form accessible via the program’s website. The program’s IT staff was working with employees of Legal Server, LSA’s new case management system (CMS), to create a web page where applicants may complete an application and have the information transferred directly into the CMS.

¹⁴ The LSC visit team leader learned, during a July 30, 2013 phone conversation with the executive director, that there were impending reductions in the workforce at LSA and that the Call Center managing attorney located in Birmingham would be one of the staff leaving, effective September 27, 2013.

¹⁵ The Call Center is now under the direction of an attorney who managed it previously, from 2005 to 2010.

Call Center staff does the screening over the phone (or for on-line applicants, when the application is reviewed by Call Center on-line intake staff), then decides whether the case is to be handled as full representation or advice and counsel. If advice and counsel, the advice is provided by Call Center staff. If full representation is to be provided, the case is sent to the appropriate direct services office of LSA.

The program's telephone system has Call Detail Record and Queue Metrics management tools. The 2013 technology plan indicates that the program plans to develop a process for reviewing call records and metrics such as hold time, talk time, voice mail, caller ID and dropped calls by caller and office.

The Call Center currently handles roughly 38% of intake, including on-line intake. In some offices, only 10-15% of the intake is done through the Call Center. The number of cases closed by the Call Center decreased from 3,119 in 2011 to 2,304 in 2012. Coordination between the Call Center and the direct service offices needs improvement to reduce the possibility of multiple screenings or duplication of advice and counsel services.

The staff survey conducted in advance of the LSC visit indicated that the Call Center has been plagued by long wait times and lost calls. This was confirmed during the team's on-site interviews with program staff and with community partner organizations. Both groups mentioned having received complaints from applicants for services about long wait times and dropped calls. The Call Center director stated during his interview that in March of 2013 the Call Center received 2,705 calls, 1,511 of which were unanswered. The average hold time for calls that were answered was 5.2 minutes. The average hold time before disconnect was 5.58 minutes.

Currently, callers are not given an estimate of the amount of time before the call will be answered or how many callers are ahead of them in the queue; nor are they offered the option of leaving a call-back number. However, they do hear helpful recorded information while on hold, such as the types of cases not handled by the program and the option of applying on-line for services. The Call Center director at the time of the LSC visit acknowledged that complaints had been received about long hold times.

There is no formal mechanism for regular dialogue and mutual feedback between the Call Center staff and the field office staff concerning intake.

LSA's intake system has included on-line application for services through its website since 2010. On-line intake is integrated with the case management system. The on-line intake team is a component of the Call Center and consists of an attorney assisted by a paralegal. On-line intake now accounts for roughly 10% of the program's overall intake. The program reports that during 2012 over 1,300 cases were created from on-line intakes. Visit team members heard reports that data from the on-line application is sometimes lost and that Call Center follow-up is not always timely.

Recommendation II.3.9.1 *- LSA should convene a working group or task force within the program including membership from the direct service offices to develop ways to streamline and

improve LSA's intake system and achieve better coordination between the Call Center and field offices.¹⁶ Some activities of the working group or task force could include the following:

- Examining the differences in intake procedures among offices in order to determine the intake procedures that are most efficient for clients, for the office and for the program as a whole. LSC's Intake Focus group is an available resource to the program and can suggest ways that the Call Center may achieve greater efficiencies;
- Improving coordination between the Call Center and the field offices to minimize the risk of multiple screenings or duplication of advice and counsel services;
- Establishing a protocol for regular communication and feedback exchange between field offices and the Call Center;
- Developing ways to make accessing program services through the Call Center easier and more productive by providing additional information and/or choices for callers, including a telephone system feature that estimates the time remaining before the caller may speak to a screener or that offers a call-back option; and
- Examining and improving on-line intake so that it operates more efficiently.

Recommendation II.3.9.2 – *When resources permit and when the Call Center is operating at a more efficient level, the program should consider expanding the role of the Call Center over time so that more people are encouraged to use it as the primary intake portal.*

PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low income population in its service area.

Criterion 1. Legal Representation

A. Staffing and Expertise

Finding 10: LSA has advocates with a wide range of experience in handling the core legal issues that confront low-income persons within the service area.

LSA's advocacy staff consists of an appropriate mix of experienced and newer lawyers. Thirteen attorneys on staff have practiced law for over 20 years, twelve for 10-15 years, and thirty-one for 10 years or less.¹⁷ The program has a director for advocacy and two advocacy directors, all of whom are experienced and skilled attorneys.¹⁸ They are accessible to all of the attorneys in the program and are regularly called upon to discuss and to strategize on cases. There are a number

¹⁶ This could be initiated or coordinated by the strategic planning Services and Delivery Workgroup, which could continue its work after development of the strategic plan.

¹⁷ These numbers are based on staffing information provided by the program shortly before the on-site visit. The R.I.F. (see footnote 14, *supra*) will have an impact on the experience level of program attorneys and includes both of LSA's advocacy directors.

¹⁸ The advocacy director positions focus on specific substantive areas of expertise (consumer law and economic justice. Both positions are slated to be eliminated, effective September 27, 2013.

of other experienced attorneys in the program who are readily available as resources for the newer attorneys.

Advocates have familiarity with the range of legal issues confronting their clients. Many of the advocates with whom team members spoke showed a firm commitment to providing quality legal assistance to clients. Advocates also carry a deep awareness of Alabama's civil rights history and a desire that legal aid effectively address entrenched injustices in poor communities.

B. Legal Work Management and Supervision

Finding 11: The program utilizes legal work management systems sufficient to ensure that legal assistance is carried out effectively.

Each of the nine offices is led by a managing attorney who is responsible for both managing the office and supervising the advocates' legal work. In the four larger offices there is also a lead attorney who supports and assists the managing attorney and fills-in during his or her absence. The program established the lead attorney position as a way to help staff develop leadership skills and to provide back-up and support for the managing attorney. It was envisioned as a rotating two-year position. The lead attorney receives a stipend in addition to his or her annual salary. In practice, some lead attorneys have stayed in the position well beyond two years.

LSA has three Practice Groups: Consumer/Housing; Economic Empowerment (which includes public benefits in addition to economic development); and Domestic Violence/Family. Each Practice Group has a chair or co-chairs. All attorneys and paralegals are members of one or more Practice Groups. The Practice Groups meet in person, generally once or twice a year, maintain active listservs that ensure that members remain apprised of current developments, and share information regularly in their areas of focus. A purpose of the practice groups is to brainstorm on how to address significant legal issues that affect the client population. A few advocates interviewed expressed a desire for the practice groups to meet more often than they do.

The program has an intranet ("the Portal", as it is referred to within LSA) which is intended, among its multiple other functions, to serve as a repository for model briefs and pleadings. In practice it does not seem to have been used extensively as a brief bank.

LSA has a detailed and comprehensive Client Service and Compliance Manual that sets forth the program's systems and procedures regarding case acceptance and case management. The managers and staff follow the guidelines and timelines set forth in the Manual, which has case handling protocols that address calendaring, tickling, file maintenance, and timely case closings.

Managing attorneys review case files for the attorneys and paralegals in their offices three times a year and are accessible to the advocates they supervise. Case reviews help ensure that caseloads are appropriate, that file maintenance standards are followed, and that sufficient progress is being made on the cases. Managing attorneys also review the advocates' closed cases.

The program's director for advocacy has over thirty-five years of legal experience, has been with the program since 1978, and has served as director for advocacy since 2003. He is based in the Montgomery office. The program's two advocacy directors are located in its Huntsville and

Selma offices. Co-counseling between experienced and newer advocates occurs across office lines.

The director for advocacy's primary responsibility under his job description is to work with the program's advocacy directors to provide support for and coordinate advocacy throughout LSA. This includes providing leadership on advocacy efforts (e.g. acting as lead counsel or co-counsel on significant litigation), mentoring, training, and providing substantive support to practice groups. The director for advocacy's current responsibilities also include regularly assessing reports on case closings by individual advocates and offices, as well as ensuring that the necessary compliance-related steps have been taken prior to closure of the case. Captured in the reports reviewed by the director for advocacy are the type of legal problem, the reason for closing, and the outcome of the case. He periodically looks at managing attorneys' cases in the database and may contact them on occasion to discuss a particular case. He also attends practice group meetings and is viewed by attorneys throughout the program as a valued resource. Though he is familiar with and supervises the legal work of the managing attorneys and advocacy directors, he does not conduct reviews of their cases. The director for advocacy also oversees compliance with the LSC statute and regulations. He drafted the program's Client Service and Compliance Manual.

The director for advocacy is viewed by many advocates as an available resource who is always willing to help on individual cases, but there is an imbalance between his current work and the responsibilities set forth in his job description. The majority of his time is not spent coordinating advocacy. This has not been the case in the past, when he had much more of a role in coordinating and strengthening program advocacy. The planned elimination of the two advocacy director positions will only increase the need for a return to his original role. The executive director recognizes that the director for advocacy is "wearing too many hats."

***Recommendation III.1.11.1*:** The program should adjust the director for advocacy's responsibilities to afford him more time to oversee and coordinate the legal work of the program and to strategize with the managing attorneys to address the advocacy needs of the organization.*

***Recommendation II.1.11.2*:** Attorneys should be encouraged to place copies of briefs, memoranda and similar materials on the program Portal to make them available to advocates throughout the program.*

C. Training and Support for Legal Work.

Finding 12: LSA provides sufficient training opportunities and support for staff to ensure they provide competent representation and stay abreast of changes in the law in their practice areas. Some newer advocates in the program could benefit from more structured guidance.

At the time of the visit, LSA had a director of training whose responsibilities included identifying relevant training opportunities and transmitting information about trainings to staff. The program has since made changes in administration, including the elimination of the director of training position, and has distributed the responsibilities of the position among other staff at

LSA. Training needs are identified in professional development plans developed by case handlers and their managing attorneys.

The program has a training policy that encourages attorneys, paralegals, and support staff to participate in substantive, skills, and management trainings that will help them provide advice or legal assistance to eligible clients. The policy also provides for training to inform staff concerning activities that are prohibited by the LSC Act or other applicable Federal law, and LSC regulations, guidelines, and policies. Factors taken into consideration in approval of training requests are whether the training will help the employee fulfill job functions, goals, or objectives; whether it is required for or funded by a grant; whether it relates to a new job function or practice area for the employee; whether it is in a specialized area; how frequently the training is offered; whether the LSA budget can support the training; whether the number of attendees is capped; whether there is an upcoming application deadline; whether the staff person has attended similar trainings; whether the training is part of a series; and whether it will promote organizational partnership-building.

On-site interviews confirm that LSA affords staff sufficient opportunities to attend training. Staff reported attending a variety of training events including in-house, on-line, local, state, and national trainings.¹⁹

The program conducts a two-day orientation in Montgomery for new employees that covers such areas as LSA's history, program policies, administrative matters, and the employee handbook. LSA also holds a Statewide Staff Conference every year that includes inspirational keynote speakers, practical trainings in a variety of areas (including trainings geared to new advocates), practice group meetings, and awards bestowed in recognition of staff and office accomplishments.

Attorneys have access to Lexis and Case Maker (a free research tool provided by the Alabama State Bar) for legal research. Staff also make use of information at national legal services resource and support organizations such as the National Consumer Law Center, Management Information Exchange (MIE), and others.

LSA has no written protocols governing the training of new advocates to ensure that they are progressing satisfactorily and attaining the benchmarks one would expect of newer attorneys after a certain period of time practicing law. Some newer advocates within the program expressed a need for more structured guidance.

Recommendation III.1.12.1*: *LSA should create written protocols and benchmarks for the professional development of its newer attorneys. The program should develop uniform standards*

¹⁹ These have included the following over the past couple of years: state and local bar association CLEs; National Institute of Trial Advocacy trainings in depositions and trial skills; Management Information Exchange (MIE) supervisors' training; National Consumer Law Center training; the Shriver Center's Community Lawyering training; LSC's Technology Initiatives Grants Conference; the I.R.S.'s Low-Income Taxpayer Training; the Southern REACH Conference (HIV/AIDS advocacy); the NeighborWorks Training Institute Conference; Fair Debt Collection Practices training; the National Community Reinvestment Act Annual Conference; the annual NLADA Conference; the Equal Justice Conference; national and state Domestic Violence trainings; the BP oil spill advocates' meeting; and the National Family Justice Center Conference. Staff also reported attending computer, customer service, and cultural sensitivity trainings.

specifying necessary steps in the development of new attorneys, such as observations and critiques, graduated caseload limits, and standards on the nature of and frequency of periodic case reviews. Managing attorneys should ensure that the protocols are adhered to.

Recommendation II.1.12.2: *The procedure to request training should be updated in light of the administrative restructuring that has eliminated the director of training position.*

D. Quantity and Quality of Legal Work

Finding 13: LSA's attorneys have the capacity to produce high quality legal work.

LSA employs compassionate and committed legal advocates who are well trained, skilled, and collectively have substantial legal experience. The team's review of writing samples, discussions with staff advocates, and interviews with judges and attorney board members reflect that the program has the capacity to produce high quality legal work. Judges with whom team members spoke were highly complimentary concerning the legal work of program advocates. Attorneys were described as being skilled at dealing with the client population, well-prepared, compassionate, professional in their dealings with the court, and good advocates for their clients. Team members were satisfied with advocates' discussions of how they pursued their cases and with results obtained. LSA advocates remain aware of the key issues and new developments in their substantive areas of practice through practice groups, email lists, and trainings.

The advocate writing samples reviewed by LSC the team were varied and covered a wide range of substantive law areas, including bankruptcy, mortgage foreclosure, Medicaid, unemployment insurance, divorce, custody, termination of parental rights, unlawful detainer, subsidized housing, consumer/collections, garnishment, federally subsidized housing, federal tax exemptions, and consumer issues. The samples also represented a variety of legal writings and covered a considerable range in terms of complexity. They reflected the diversity of forums in which LSA advocates practice, and included letters to clients providing advice and counsel, state and federal court pleadings, legal memoranda, and appellate briefs (including two Alabama Supreme Court briefs). Some of the writing samples were quite good; others could have benefited from further editing and supervisory review.

LSA has maintained solid substantive law expertise in its core areas of housing, consumer, domestic violence, and family law. Advocates interviewed demonstrated sound knowledge and practical expertise in these areas. A number of attorneys carry very high caseloads and all are working under difficult conditions in the face of diminishing resources.

Finding 14: Most of the program's case work, while solid, is focused on individual representation and is fairly routine. The program handles few cases or matters whose outcome may affect more than the individual client.

The program's legal work generally appears to be of good quality, although most of the cases are focused on individual representation and are fairly routine. Although extended casework has largely focused on individual representation, some has had impact well beyond the individual.

Discussions with advocates during on-site interviews revealed thoughtful consideration of issues and strategies. Several attorneys interviewed expressed a desire to engage in advocacy benefiting more than just the individual client. For example, when one advocate was asked what might induce her to stay long-term at the program, she responded that she wished she had more time to devote to impact work.

Program leadership has characterized LSA's legal work as "more reactive" and more focused on "what comes in the door". The view that LSA is not doing enough impact work was expressed by advocates in a number of offices. However, the expertise, capacity and willingness to engage in broad-based advocacy clearly exists within the program, as evidenced by the Safe Harbor case²⁰ filed by the Mobile office, and the mandamus petition by the Selma office challenging an eviction action filed by a non-attorney housing authority employee. The Opelika office filed suit on behalf of a client against a local Housing Authority that resulted in an agreement to hold pre-termination hearings where required by HUD regulations, to base its future decisions on the evidence adduced at hearing, and to refrain from violating residents' right to privacy when seeking information it could use to terminate assistance. The wage garnishment cases litigated by the program are also geared to address broad-based unlawful practices. The director for litigation recognizes that the program used to handle more broad-based impact cases in the past and is considering ways for the program to increase its work in this area. For example, the program has approved sending advocates to national affirmative litigation training.

Recommendation III.1.14.1:* *In addition to individual case representation, the program should look at ways to emphasize advocacy that can achieve lasting results for the client community. LSA should build upon the skills and experience of the more senior attorneys throughout the program to develop such work, and support efforts of staff to engage in such work.*

Finding 15: **The program's total number of cases closed decreased slightly during 2012 after a significant increase the previous year, but still exceeds the number for previous years. Its extended cases closed per 10,000 exceed the national median.**

In 2012 LSA closed 13,970 cases, or 201 cases per 10,000 poor persons. In 2011 the program had closed 14,290 cases, and in 2010 it had closed 11,308 cases. The 2012 figure is below the national median of 245 cases per 10,000 poor persons. However, the program's extended closed cases per 10,000 poor persons was 61, exceeding the national median of 57. Its contested closed cases per 10,000 (29) was comparable to and just above the national median (28). The types of cases handled are dispersed among the program's priority areas. In 2012, the majority of closed cases were in the areas of family (36.6%), housing (24.6%), consumer (20.8%), and income

²⁰ The Safe Harbor Estates case was filed on behalf of residents of a public housing community created in response to Hurricane Katrina to provide affordable housing for victims of the hurricane. Residents were hand-picked to live in the community, were told that the rent on their homes would be subsidized, and that they would be given the opportunity to purchase their homes after a year. After the residents moved in, the housing was plagued by a number of problems including pervasive mold, cracks in the foundation and ceiling, and sewage and ventilation problems. The housing authority also changed the method of rent calculation causing the rent to nearly triple. A number of residents were subsequently evicted because they were unable to pay the increased rent. This ongoing case involves attorneys in multiple offices of LSA, and has led advocates to strategize nationally with organizations in other states and areas of the country.

maintenance (8%). Given its budgetary constraints, the program's layoff of advocates, and the closure of its Florence office during 2012, LSA is a reasonably productive program.

Some program staff interviewed mentioned case quotas, an expressed expectation that advocates close a certain number of cases per year, and an increased focus on quantity. The perceived pressure to produce felt within the program is not just with regard to national funders such as LSC, but appears to exist with regard to state funders as well. When asked during the exit conference about the existence of quotas, the program responded that a benchmark on cases was set six years ago at 150 to 200 cases per year and that these are the guidelines used in the evaluation process.²¹

Criterion 2. Private Attorney Involvement

Finding 16: The statewide pro bono effort in Alabama is in need of improved coordination and communication.

The program's involvement of the private bar in its work occurs through sub-grants to Volunteer Lawyer Programs in the state and through reduced-fee contracts with private attorneys throughout the service area. LSA currently has sub-grants in effect with the Madison County Volunteer Lawyers Program ("MCVLP"), the Alabama State Bar Volunteer Lawyers Program ("ASBVLP"), and the South Alabama Volunteer Lawyers Program (SAVLP).²²

The South Alabama Volunteer Lawyers Project evolved from the Mobile Bar Association's Pro Bono Program, which has been in existence since the mid-1980s. It is located in Mobile and provides pro bono services to residents of Mobile, Baldwin, Washington, and Clarke counties. It is staffed by an executive director, an associate director, an outreach coordinator, an intake coordinator, an office manager, and a Jesuit Volunteer. SALVP receives referrals of clients from LSA and other community partners. It also conducts direct intake by phone, has walk-in hours daily, and has on-line intake using an A2J application.

The SAVLP places cases with members of the private bar for individual representation, offers free legal advice clinics monthly in Mobile and Baldwin counties, has a community economic development initiative that provides transactional assistance to community-based organizations, and participates in a "Wills for Heroes" program that assists police officers, firefighters, and other emergency personnel. The program has a detailed list of requirements that must be met before cases will be considered for acceptance and placement. The SAVLP receives a sub-grant from LSA for the 2013 year of \$81,000. It also receives funding from the Alabama Civil Justice Foundation, the Alabama Law Foundation, the Community Foundation of South Alabama, the

²¹ The executive director stated that the program doesn't "just look at numbers", but acknowledges that "it's the numbers too." Staff who closed a higher number of cases have received special recognition at LSA's annual statewide staff meeting.

²² A subgrant with the Birmingham VLP was terminated as a result of an investigation by LSC's Inspector General which found transactions without supporting documentation and significant instances of questionable or unsupported expenses.

Mobile Bar Foundation, United Way, and the Mobile County Commission. Its budget for 2013 consists of approximately \$340,000.

The Madison County Volunteer Lawyers Program is located in Huntsville and serves Madison County. Organized in 1982, the MCVLP is the oldest pro bono program in Alabama. It is staffed by an executive director and an assistant executive director, an intake coordinator, a community relations director, and a volunteer who is a retired attorney. The MCVLP conducts its own intake, places cases with members of the private bar for individual representation, offers a monthly counsel and advice Help Desk at the Huntsville Law Library, and participates in veterans' stand-downs, during which its volunteer attorneys provide legal assistance to veterans. The MCVLP also receives referral intakes from LSA. The MCVLP receives a sub-grant from LSA for the 2013 year of \$98,500. Its budget for 2013 is approximately \$200,000.

The Alabama State Bar Volunteer Lawyers Program was established in 1990 to provide pro bono legal services to low-income Alabamans in civil matters. The ASBVLP is funded primarily by the Alabama State Bar, the Alabama Law Foundation, and the sub-grant from Legal Services Alabama. The ASBVLP receives a sub-grant from LSA for the 2013 year of \$100,000. Its budget for 2013 is approximately \$350,480. It is located in Montgomery in the Alabama State Bar Association Building and is staffed by an executive director, an administrative assistant, and two paralegal/intake workers. It operates a panel-model program that places cases for individual representation with pro bono attorneys throughout the state, though it recently began holding a monthly walk-in clinic with the Montgomery Bar Association at a local Head Start program. Referrals from LSA to the ASBVLP are coordinated through an administrative assistant at the LSA Call Center in Montgomery. Referrals are made from the Mobile and Huntsville offices by support staff after a determination has been made by the managing attorneys of the two offices that the case is appropriate for referral to the appropriate VLP.

Private Attorney Involvement in Alabama involves complex and dynamic relationships and the balancing of interests of numerous entities and individuals - the state and local bar associations and leaders; individual volunteer lawyers; Volunteer Lawyers Programs; LSA staff and its board of directors; LSC; the Alabama Bar Foundation and other funders; the State Access to Justice Commission; and the numerous low-income persons in Alabama with unmet legal needs. The VLPs in the state are clearly building their capacity to handle more pro bono cases and are working to expand the number of counties that they cover.²³ This expansion is backed by funding from the Alabama Bar Foundation and is supported by the Alabama State Bar and by local bar associations and leaders.²⁴ In addition, the VLPs are leveraging local relationships to position themselves for effective private bar campaigns in their communities.

From 2009 to 2012 the VLPs significantly increased the number of cases closed for low-income persons, from 1,320 cases in 2009 to 3,163 cases in 2012.²⁵ The increase in numbers coincides

²³ The SAVLP received additional funding in 2012 to expand into three adjoining counties: Baldwin, Clarke, and Washington and changed its name from the Mobile Volunteer Lawyers Program to reflect the regional nature of its expanded coverage.

²⁴ Interviews conducted during the visit indicate that the impetus for regionalization and expansion of the VLPs has its origin at the state level.

²⁵ The Alabama Law Foundation's CSRs for the VLPs for 2012 reflect that during that year 60% of the cases closed were extended services case and 68% of the extended service closed cases were uncontested court cases.

with the VLP goal of expansion to cover additional areas and the undertaking of their own intake efforts. From 2009 to 2012 LSA's closed PAI cases increased from 2,193 to 2,745.²⁶ However, both the number and the percentage of extended service closed cases decreased during the same period, from 1,371 (63% of the total PAI cases closed) to 837 (31% of the total cases closed). While the increase in LSA cases closed by the VLPs paints a partial picture of success, on-site interviews reflect that LSA's relationship with its sub-grantees has not, for the most part, been one of meaningful collaboration and effective partnering. Coordinated efforts of LSA and the VLPs surrounding National Pro Bono Week are a notable exception.²⁷

There are widely varying perspectives among LSA and its sub-grantees concerning the level of cooperation and the nature and genesis of the tensions that exist among the entities involved in pro bono delivery in Alabama. Suffice it to say that tensions do exist and cannot be ignored. Communication between LSA's administrative office and the VLPs is poor. Determining the reasons for this is beyond the scope of this report. The pro bono stakeholders should be coordinating their efforts and communicating on a regular basis in order to enhance pro bono opportunities for attorneys and expand services to clients.

During on-site interviews, the visit team heard serious concerns expressed regarding the following:

- the possible duplication of effort among the various providers of legal services for the poor in Alabama, especially during a time of scarce resources;
- inconsistency in services provided to clients on cases handled by VLP attorneys;
- the limited number of VLP direct referrals from LSA;²⁸
- the challenges for LSA in getting cases accepted or timely placed by the VLPs;²⁹
- the limited communication, coordination efforts, information-sharing, and relationship-building among pro bono stakeholders in Alabama;
- the view that LSA and the VLPs may be acting more as competitors than as partners in a joint endeavor with a common goal.³⁰

Illustrative of the poor communication and information-sharing, at the time of the PQV LSA's proposed 2013 PAI plan had not been shared with its VLP sub-grantees, nor discussed with VLP staff.³¹ LSA and the VLPs do not have regular meetings. In the absence of meaningful and

²⁶ There was a large decrease in the total number of PAI cases closed during 2010, to 987 from 2,193 the previous year.

²⁷ The ASBVLP executive director is the primary staff person for Alabama's Celebration Pro Bono committee. LSA's PAI coordinator and the executive directors of the other VLPs in Alabama also serve on the committee.

²⁸ LSA's grant activity reports to LSC for 2012 substantiate that during that year far fewer cases were referred by the program to its sub-grantees. The reports showed a steep decrease from 2,050 in 2011 to 606 in 2012.

²⁹ As one staff person interviewed stated "more often than not, referrals are going to get kicked back". Another categorized the rejections by the VLP as being "for very picky reasons". A third stated that a "thirty-day window" is required for cases referred to the VLP and that cases with an earlier deadline are not accepted.

³⁰ Information obtained by the team during the visit clearly indicates that the VLPs are and have been restructuring their operational models and expanding their staffing to include intake and outreach staff, and have been expanding the number of counties they serve, increasing their funding from non-LSA funding sources (such as major law firms, a local foundation and the IOLTA funder), and engaging in their own fundraising activities. VLP staff understand regionalization to be part of the state bar's strategic plan, which has a strategic planning VLP task force.

³¹ The plan has since been shared with the VLPs by LSA.

productive communication and effective collaboration, it is difficult for LSA to ensure oversight of quality or provide sufficient guidance to its sub-grantees on compliance related-issues.

Notwithstanding the aforementioned, efforts at both the VLPs and LSA appear to be advancing, and coordination and communication are occurring, most often at the local level. For example, the managing attorney of the Mobile office sits on the board of directors of the South Alabama VLP and chairs its Significant Needs Committee. She also participated in Fair Housing training for SAVLP attorneys. Attorneys in Mobile, Huntsville and other offices of the program have also participated in trainings for VLP attorneys and in clinics with volunteer attorneys. A VLP attorney has provided back-up for LSA during its annual meeting. LSA and SAVLP will be partnering to hold fair housing clinics, with the two organizations alternating the months between them.³²

Alabama's statewide pro bono effort could be improved with better collaboration and communication. LSA and the VLPs are primarily responsive to different constituencies. Their priority cases appear driven by different considerations – LSA's by the client community needs and the program's ever-diminishing resources and the VLPs' by what their potential volunteers may be willing to undertake and the time volunteers feel able to commit to pro bono work.³³

Recommendation III.2.16.1 * - *LSA should hold periodic, regularly scheduled meetings with the VLP directors to enhance collaboration and communication. These meetings should include LSA staff that will work to develop strategies to address specific issues, such as ways to encourage acceptance of some harder-to-place cases or cases with upcoming deadlines that are shorter than 30 days.*

Recommendation III.2.16.2* - *LSA should seek the substantive input of VLP staff and board chairs when formulating its PAI plan and before approval of a draft plan.*

Recommendation III.2.16.3* - *LSA should ensure that development of PAI plans and strengthening relationships with pro bono partners are included in the program's strategic plan for the future and that pro bono advocacy goals are, likewise, incorporated into the planning process.*

Recommendation III.2.16.4 - *LSA and its pro bono partners in Alabama should seize the opportunity provided by National Pro Bono Week³⁴ to strengthen their relationships. LSA might consider approaching its VLP and state partners about setting up a task force with multi-stakeholder representation to focus on increasing pro bono representation in the areas of most critical need for the client population.³⁵*

³² Though the Montgomery Bar Association is not an LSA sub-grantee, The Montgomery office of the program sends a representative to the Montgomery Bar's pro bono clinic.

³³ On March 26, 2013 the Alabama Supreme Court adopted a limited scope representation rule which should have the effect of stimulating pro bono volunteerism within the state.

³⁴ The 2013 National Celebrate Pro Bono Week is October 20 – 26, 2013.

³⁵ For example, stakeholders could work to develop and implement a strategic effort to expand the availability of pro bono services in critical areas of family law in which pro bono services have been in short supply or difficult to obtain, such as contested divorces.

Recommendation III.2.16.5*- *LSA should consider shifting the majority of pro bono coordination, for all but the statewide VLP, from the state to the local level and should encourage its managing attorneys to devote time to strengthening the office relationships with the VLPs.*

Recommendation III.2.16.6 * - *The Private Attorney Involvement/Pro Bono Committee of the LSA board of directors and the board as a whole should take a more active role in strengthening the relationships between LSA and its sub-grantees. The committee might serve as a source of ideas to help strengthen collaborative partnerships between LSA and the VLPs in the area of pro bono service delivery. The committee should also consider serving as a liaison between LSA's PAI program and the statewide and regional VLPs.*

Recommendation III.2.16.7 - *LSA should consider encouraging its pro bono partners, when resources permit, to join the program in convening a statewide facilitated pro bono summit involving key stakeholders and leaders in Alabama.*

Other program services and activities on behalf of the low income population

Finding 17: LSA engages in numerous other services and activities that provide both education on and access to the justice system for the low income population throughout its service area.

LSA attorneys are engaged with their local bar associations, in some instances as bar association officers. For example, an attorney in the Anniston office is the president of her county bar association. Program staff has also worked with an ABA committee to draft a model law on “heirs property” and partition sales.

The program has worked with the Alabama State Bar on designing pro se forms, e.g., for wage garnishments and protective orders.

Staff are involved in their communities in ways that benefit the client population and strengthen the program's ties to area service delivery partners:

- Staff attend meetings of Volunteer Organizations Assisting in Disaster Planning.
- A program attorney is the coordinator of the local Children's Policy Council.
- A paralegal in Anniston is on the nursing home ombudsman advisory committee.
- An attorney in the Montgomery office is on the board of directors of Leadership Montgomery and the domestic violence task force for Montgomery County.
- A Mobile attorney is on the board of directors of the Family Center.
- Attorneys in several offices of the program are members of state and national homeless coalitions.

Apart from the inclusion of pro se materials on the AlabamaLegalhelp.org website, LSA has not made extensive use of pro se materials through clinics. However, there is an opportunity for this

to change, with recent state rule amendments establishing procedures for limited scope representation by attorneys.³⁶

PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration.

Criterion 1. Board governance

Finding 18: The LSA Board of Directors is supportive of the program and actively engaged in program oversight and governance.

LSA has a 27-person board that includes among its membership a former Chief Justice of the Alabama Supreme Court, current and former Alabama Bar Commissioners, a former member of the LSC Board of Directors, and the president of the Alabama State Clients Council. Many are active in state bar leadership. A number of board members have served as directors since before the merger of three separate organizations into LSA in 2004.

The LSA board has the following standing committees: executive, audit review, client relations, finance, governance, nominating, personnel, private attorney involvement/pro bono, and resource development. Each committee has at least one staff liaison. Though the board has both a finance committee and an audit review committee, board expertise in the fiscal and accounting area is limited. Finance committee members have received training from the audit firm and from the LSA controller, but there is no member who is an accountant, auditor, or financial manager. The finance committee began meeting monthly during the program's financial crisis of several years ago and has continued the practice.

The LSA board is strongly supportive of the program's mission to increase access to justice for poor Alabamans. Board members have been active on Alabama's Access to Justice Commission. Board member efforts helped the program obtain funding from the mortgage foreclosure settlement. The board is actively participating in LSA's strategic planning process. Board members have also participated in LSA's statewide staff conference as both attendees and presenters.³⁷ A client board member assisted with the program's needs assessment.

The board of directors receives regular reports concerning services to clients, community education, and monetary amounts awarded to or avoided by clients as a result of staff advocacy.

In the years since the three LSC-funded programs in Alabama merged to form LSA, the board of directors and LSA have weathered significant organizational challenges, including addressing a major budget shortfall in 2007, the departure of the program's executive director, and subsequent staff layoffs needed to get the budget under control. More recently, the board has addressed additional funding decreases, the necessity of an office closure, and further reductions in staff.

³⁶ See footnote 23, *supra*.

³⁷ Long-time board member LaVeeda Morgan Battle gave an Ethics presentation at the 2012 Statewide Staff conference.

The board evaluates the executive director annually using a “360” process that obtains input from multiple sources.³⁸ Board members interviewed were pleased with the job the E.D. has done, and feel he is deeply committed to his work and highly regarded in the community and statewide.

The board received training from MIE in December of 2012 that strengthened relationships among board members, allowing the board to consider current and future challenges facing LSA and providing an opportunity to develop strategies to address those challenges. The training encompassed such areas as the board’s fiduciary responsibilities, by-laws, funder requirements, and financial administration. It had been several years since the board had had similar training, and the board president reported that the training reinvigorated the board and resulted in the establishment of a policy to have comparable training every two years.

Recommendation IV.1.18.1* *LSA should work to increase financial expertise on the board when the opportunity arises through recruitment of fiscal professionals to serve on or advise the board and its finance committee.*

Criterion 2. Leadership

Finding 19: LSA’s executive director became the program’s leader and most visible public face at a difficult time for the program. He has since provided steady and firm leadership.

The executive director has over 30 years of experience as an attorney. He is a former judge of the Alabama Court of Criminal Appeals. He is also a former Green Beret and member of the JAG Corps. Prior to becoming executive director, he served as LSA’s Regional Director for the Southernmost Region.

The executive director took the helm at a time when LSA was in the midst of a financial crisis and was facing a deficit of \$600,000. His resolve and steadfast approach brought stability to the program during what was an extremely difficult period.

The executive director has a good working relationship with the board of directors and his executive team and has the respect of both groups.

Criterion 3. Overall management and administration

Finding 20: The program appears to have an effective management structure as well as processes and systems to ensure compliance with funder requirements.

The executive team consists of the executive director, the director of operations, the director for advocacy, the director of resource development, and the controller. Executive team members are under the direct supervision of the executive director.

³⁸ During a 360-degree process, feedback is obtained from members of an employee's immediate work circle. Most often, 360-degree feedback will include direct feedback from subordinates, peers, and supervisor(s), as well as a self-evaluation. It may also include feedback from external sources, such as stakeholders.

LSA appears to have a solid team of managing attorneys. The managing attorneys of the offices meet once a year as a group, together with the executive director.³⁹ They do not meet independently as a group.

In addition to the managing attorney, each of the four largest offices of the program also has a lead attorney. The lead attorney position, in theory, rotates every two years and provides the opportunity for development of leadership skills. A salary stipend is provided to lead attorneys for the additional responsibilities of the position. In practice, the lead attorney position has not rotated and the executive director acknowledged that the rotation has so far been “aspirational”.

The impression gleaned at the time of the LSC visit was that executive team structure and allocation of function areas and job responsibilities was evolving and that certain positions may not make the best use of the staff assigned nor meet the needs of the organization for the function area. Some managers/administrators did not seem well-matched to their positions, given their strengths, backgrounds, and experience. However, there have been some changes in the program’s administrative structure and staffing since the LSC visit, which may have been prompted, in part, by a desire to better align individual strengths with job responsibilities in the administrative office.

Though LSA has a succession plan for the executive director position, it does not have succession plans for other leadership positions within the organization.

Recommendation IV.3.20.1: *The program should use the strategic planning process to continue looking at administrative roles and consider whether further adjustments or changes in job responsibilities might be appropriate.*

Recommendation IV.3.20.2 *The program should consider the use of succession planning beyond the executive director position to other senior management positions.*

Recommendation IV.3.20.3*: *The program should consider having the managing attorneys meet with the executive team regularly to discuss policy and organization issues. Managing attorneys should also have the opportunity to meet on their own to discuss management issues and to encourage coordination on delivery system issues.*

Recommendation IV.3.20.4: *The program should consider rotating the lead attorney position, to provide the opportunity for other attorneys to develop their leadership skills.*⁴⁰

Technology

Finding 21: LSA has a talented IT staff and a good technology plan.

The program has an experienced and dedicated technology staff consisting of the information technology manager and the help desk coordinator. The IT manager has been with LSA for eight years and has primary responsibility for technology planning, assessment and support. He has a national reputation in the legal services community and is recognized as an expert on telephony

³⁹ In some previous years the group met as often as three times a year.

⁴⁰ This would not bar the option of reappointing lead attorneys for additional two-year terms, as deemed appropriate.

and security. The help desk coordinator has many years of relevant experience and a thorough knowledge of the program's technology. The program's I.T. staff recognizes that the fundamental purpose of the program's technology is to support LSA's overall mission to deliver high quality legal services to the client population.

Generally, the program's technology is good. However, the visit team heard complaints from staff about technology in some offices, which IT staff attributes to problems with the wiring in a couple of the offices, which can lead to outages of the CMS and the telephone system. The program is exploring the possibility of office relocation to alleviate the problem.

The program employs security best practices such as up-to-date anti-virus software, anti-malware and the requirement of passwords on all machines.

LSA has a technology plan that is properly focused on the infrastructure and on technology's contribution to legal work and management. The IT manager schedules regular meetings to review the program's technology needs and plan.

The program replaced its previous CMS shortly before the LSC visit with a new case management system, Legal Server. The program pays a flat fee yearly for the CMS, bringing the cost down to roughly half that of the previous system. The transition to Legal Server has not been smooth. The staff survey conducted in advance of the visit reflected some dissatisfaction with how the new CMS was introduced and implemented. Though the introductory training was through a PowerPoint presentation rather than hands-on, it appears that appropriate steps are being taken to ensure that staff members have the support they need to utilize the new system effectively.

Disaster Planning and Preparedness

Finding 22: The program has had significant successes in reaching the client population and providing legal assistance in the aftermath of both natural and man-made disasters.

LSA has an eight-year history of effectively dealing with disasters that have had a severe impact on the service area and its inhabitants, starting with Hurricane Katrina and continuing with subsequent hurricanes, the Gulf oil spill, the tornadoes of 2011 and 2012, and flooding caused by heavy rains in the Mobile area. The program has had significant successes in reaching the client population and providing legal assistance in the aftermath of these natural and man-made disasters. Advocates are trained and experienced in disaster response. They have developed strong connections with FEMA, the Red Cross and ALEMA.⁴¹ LSA Staff are regular participants in the LSC monthly Disaster calls and are able to share their knowledge and experiences with staff facing disasters in their own states.

LSA has a disaster plan drafted in 2010. It places specific responsibilities on the executive director and other members of the leadership team, on the supervising attorneys, and on each staff member. Pre-disaster guidelines outline steps for ensuring office security, protecting files and other valuable assets, establishing telephone trees for staff members to communicate with each other, and disseminating information to the client community in the event that offices are not accessible. Procedures are enumerated for specific types of emergencies. A major part of the program's disaster planning is geared toward ensuring that program technology survives a disaster and can contribute effectively to continued service delivery in its aftermath.

⁴¹ The Alabama Emergency Management Agency.

In places, the wording of the disaster plan is prospective. For example, it requires that the controller ensure that back up payroll systems are in place, rather than indicating that this has been done and will be kept up to date. The plan the LSC team was provided in advance of the visit was dated July 2010 and needs to be updated. The titles of certain positions have changed since 2010, and it is not clear that the telephone trees have been revised to reflect current staffing. The plan could also include more detail. For example, it contains no discussion of how the program will work with partners to plan in the event of an emergency. While this element should be included in the plan along with a discussion of ongoing partnership activities, LSC recognizes the fact that the program has the appropriate partners and has worked effectively with them in the aftermath of disasters. The plan does not deal with specific documents and how they will be preserved and accessed. Recovery plan checklists exist and can be referred to by LSA to make sure that these documents are protected. While many of these documents are in the program's servers, some, such as pre-server documents and paper evidence, may not be.

Recommendation IV.3.22.1: *LSA's disaster plan should be updated and in the process, the program should consider providing additional detail.*

Criterion 4. Financial Administration⁴²

Finding 23: **LSA has detailed written fiscal policies and procedures geared to comply with applicable LSC requirements that appear to be followed. The program appears to engage in appropriate budget planning and oversight.**

LSA maintains a two-month operating reserve of approximately \$700,000 to help ensure payroll is met. The program has written fiscal policies and procedures. The accounting manual was updated last year, based on the current LSC accounting guide.

LSA has three staff persons dedicated to financial administration. The controller at the time of the LSC visit was a CPA and a member of the executive team.⁴³ The program's fiscal staff also includes two accounting clerks.

The fiscal staff conducts monthly reviews of planned and actual expenses. Monthly financial reports are provided to the executive director and to the board finance committee. Additionally, quarterly financial status reviews are held with the executive director and the full board. Revenue, expense, and cash-flow reports include projections. Materials provided to the board incorporate explanatory notes. The accounting office produces financial reports by branch office, funding source, and by detailed expense categories.

The budget planning process begins with the executive director, the controller, and other members of the executive team who meet to review funding streams and budget requirements and to formulate LSA's annual operating budget. The board receives the preliminary budget in advance of the fiscal year, at which time the board discusses program priorities, requirements,

⁴² This visit was conducted by the Office of Program Performance for the purposes set forth in the Introduction. OPP findings and recommendations under this criterion are limited to staffing, organization, and general functions. Assessment of fiscal operations is conducted by other offices at LSC.

⁴³ The program forwarded LSC a copy of the resume of the current controller, hired in July of this year. The resume indicates that the current controller has the background for the position.

revenue streams, staffing, and commitments. The board makes recommendations on the budget as necessary and approves the final budget.

Recommendation IV.4.23.1: *The program should consider multi-year budgeting to allow LSA to plan beyond a single grant year, to monitor and achieve goals that extend beyond one year, and to ensure adequate resources are available to achieve the goals of the program's strategic plan.*

Criterion 5. Human Resources Administration

Finding 24: The program appears to have sufficient, capable, trained staff assigned to human resources administration.

LSA's director of operations is responsible for human resources administration and has extensive experience in the area.

The program has a comprehensive, well organized, and detailed employee handbook that addresses compensation and benefits, LSA procedures and policies, employee and program responsibilities, and performance evaluations. Human resources files are secured and are being digitized.

LSA employs a "360" evaluation process that includes a staff self-evaluation, input from other staff, and a performance evaluation conducted by management staff. Management, attorney, and support staff are evaluated annually. Employees receive feedback on performance mid-year. Though performance evaluations are conducted for most staff, the members of the executive team - with the exception of the E.D., who is evaluated by the board of directors - have not been formally evaluated.

Exit interviews are conducted with departing staff. The Director of Operations indicated that flat salaries are a major contributor to staff resignations.

Recommendation IV.5.24.1:* *The executive director should conduct written performance evaluations for the members of the executive team.*

Criterion 6. Internal Communication

Finding 25: Communication throughout the program occurs through various means, including email, instant messaging, a program newsletter, and in-person meetings. However, communications from central administration to branch office staff may be having an unintended effect on morale.

Communication is generally good within the various offices of LSA. There are weekly staff meetings in each office to discuss internal and housekeeping matters and during which office managing attorneys update staff on information from the administrative office in Montgomery.

In addition, communication and contact between the central administrative office in Montgomery and the direct services offices occurs regularly. Program leadership has been direct in its

communications with staff concerning the financial picture and future funding of LSA. Staff is kept abreast of the current economic landscape via regular communications from the E.D. and during in-person visits of the executive director to the various branch offices. The executive director or the director for advocacy visits program offices regularly.

LSA publishes a program newsletter called “Insider Magazine” that contains program, office, and staff updates; information about upcoming and recent trainings; administrative office updates; reports of advocacy victories and community outreach efforts in LSA’s various offices; and more. The program also has a benefits committee comprised of representatives from all offices and all employee classes to discuss changes to employee benefits that are under consideration. As mentioned in an earlier section of this report, LSA holds an annual statewide conference that is not only a vehicle for information-sharing and training but provides an opportunity for staff in the different offices of LSA to get to know each other better.

In spite of the aforementioned, there is a perception throughout the program that communication and decision-making are “top down” from the central office and that some decisions are made with little or no opportunity for input from staff in advance of the decision. Communication as an issue of concern arose both in the pre-visit survey conducted by LSC and during the on-site interviews.

Funding uncertainties, stagnant salaries, staff turnover, and the pressure to do more with fewer resources all take their toll on staff morale. Though the administrative office’s open approach to keeping staff apprised of funding changes is commendable, the concern it has raised among many staff members about possible layoffs and office closings has had a negative effect on morale program-wide, already on the low side as a result of the aforementioned factors. As one person interviewed succinctly stated, staff are “concerned they’ll be the first to go if there are funding cuts”.

Recommendation IV.6.25.1 *- *Given the conditions under which LSA staff is currently working, which include funding uncertainties, modest pay, increased turnover, high caseloads, and increased pressure to produce, communication from the central office may be contributing to staff stress. The executive office should examine its manner of communication in light of this.*

Criterion 7. General resource development and maintenance

Finding 26: LSA has had some recent fundraising successes, but has seen program resources diminish and has experienced a significant reduction in funding during 2013.

LSA has a director of resource development, who is assisted by a development coordinator. At the time of the LSC visit the director of resource development was someone who had been with the program since 2001 – initially as a domestic violence attorney, then as a supervising attorney, and later as the Call Center director. As mentioned earlier, since the LSC visit the program has made changes in administration, including transferring the former director of training to the position of resource development director.

LSA’s current posture concerning the possibility of a private bar campaign is complicated by the history of its earlier campaign in Birmingham. Several years ago the former E.D. sought funding

from private firms in the Birmingham area as part of LSA's "Guardians of Justice" campaign and obtained nearly \$700,000 over a three-year period as a result. The understanding between LSA and the contributing firms was that the campaign and donations would be a one-time occurrence. Since there are several large firms in the Birmingham area, excluding the area from future private bar campaigns could significantly limit amounts LSA might raise during future campaigns.

Over the last couple of years the program has received additional funding to assist disaster victims, including persons affected by the BP oil spill. Another significant recent success is the award by the state Attorney General's Office of \$1.2 million to LSA from the mortgage foreclosure settlement funds. At the time of the LSC visit the program was also exploring other funding possibilities, such as partnering with the Alabama Primary Health Care Association on a Human Services Department Navigator grant.

In addition to its LSC grant the program receives a grant from the Alabama Law Foundation and a variety of other grants including an Internal Revenue Service grant to operate a Low-Income Taxpayer Clinic (L.I.T.C.), a VAWA grant from the Department of Justice, an Area Agency on Aging grant, an Alabama Department of Economic and Community Affairs grant to assist domestic violence victims in rural areas, funding from the U.S. Department of Housing and Urban Development, and NeighborWorks funding.

LSA's IOLTA funding has decreased markedly since 2009.⁴⁴ In addition, census adjustments, sequestration cuts and rescissions reduced the program's 2013 LSC funding by nearly \$300,000 from the previous year. The program staff and board have articulated a strong interest in diversifying program funding sources. Despite this, resource development planning seems weak and unfocused. The program's past resource development history⁴⁵ makes it essential that such efforts be strategic, thoughtfully targeted and focused.

The program has leveraged in-kind resources to supplement its monetary funding. Some of the offices use law students as interns or externs to assist the attorneys with their cases. LSA also uses volunteer attorneys to supplement the expertise of program staff, including a volunteer attorney in the Mobile office who was formerly the clerk of the Bankruptcy Court. The program recently was the beneficiary of a fellowship from the Charlotte School of Law. The program also receives donated space, such as the space used to house its low-income taxpayer clinic.

Recommendation IV.7.26.1 * - *The program should use the strategic planning process as an opportunity to provide additional focus and direction to the area of resource development.*

Recommendation IV.7.26.2* - *LSA should provide its new resource development director with the tools necessary to become successful in this position and in her fundraising work on behalf of LSA. At a minimum, this should include sending her to necessary trainings and fundraising conferences. When resources allow it, the program should consider supplementing the expertise of the resource development director with a fundraising consultant.*

⁴⁴ LSA received \$335,000 in IOLTA funding from the Alabama Bar Foundation in 2009. This decreased to \$318,000 in 2010, \$250,000 in 2011, \$62,000 in 2012, and \$62,000 in 2013.

⁴⁵ LSC recouped \$26,500 in unspent funds from LSA that were part of a disaster assistance grant the program received to assist victims of the 2011 tornados.

Criterion 9. Participation in an integrated legal services delivery system.

Finding 27: LSA is an active participant in state and regional legal assistance delivery efforts to achieve equal justice and to meet the civil legal needs for low-income persons in Alabama.

The LSA executive director is a member of the Alabama Access to Justice Commission.

LSA has worked with numerous organizations within Alabama to meet the needs of low-income Alabamans affected by disasters. LSA staff were presenters at the Tri-State Voluntary Organizations Active in Disaster Conference held in Biloxi, Mississippi in January of this year, discussing short and long-term legal issues that confront disaster victims, use of a disaster legal needs assessment tool, and legal resources available to assist persons affected by disasters. At the conference, participants from Alabama, Mississippi and Louisiana shared region-wide strategies to help them better prepare for, respond to, and recover from natural disasters. LSA has also worked collaboratively with legal services programs in Florida, Mississippi, and Louisiana as part of the Gulf Justice Consortium to assist low-income persons affected by the BP oil spill. Program staff has also worked with an ABA committee to draft a model law on “heirs’ property” and partition sales.

CONCLUSION

LSA is facing the challenges of a major reduction in funding and a reduced staff of advocates. It is hoped that the program’s strategic plan will provided a framework for moving ahead in this time of diminished resources and that the recommendations contained in this report will provide guidance as the program moves forward.