



LEGAL SERVICES CORPORATION
Office of Program Performance

FINAL REPORT

Program Quality Visit to

Northwest Justice Project

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LSC Review Team

Timothy Watson, Special Assistant to the Office of Program Performance Director
(Team Leader)

Stephanie Edelstein, Program Counsel (Co-Team Leader)

David Bonebrake, Program Counsel

Nancy Glickman, Program Counsel

Cheryl Nolan, Program Counsel

Evora Thomas, Program Counsel

Grayce Wiggins, Program Counsel

Michael Genz, LSC Temporary Employee

Alan Lieberman, LSC Temporary Employee

Cynthia Schneider, LSC Temporary Employee

Carolyn Worrell, LSC Temporary Employee

Patti Lane, Fellow of the College of Law Practice Management

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INTRODUCTION

The Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a Program Quality Visit (PQV) to Northwest Justice Project (NJP) from November 12-20, 2013. Team members included Tim Watson, Special Assistant to the OPP Director, and Program Counsel Stephanie Edelstein (co-team leaders); OPP Program Counsels David Bonebrake, Nancy Glickman, Cheryl Nolan, Evora Thomas, and Grayce Wiggins; and LSC temporary employees Michael Genz, Alan Lieberman, Cynthia Schneider, and Carolyn Worrell. Joining the team for part of the visit was Patti Lane, Director of Administrative Services at McKenna Long & Aldridge LLP and Fellow of the College of Law Practice Management.

Program Quality Visits are designed to evaluate the extent to which LSC grantees are providing the highest quality legal services to eligible clients. In conducting these evaluations, 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 is organized to follow the four Performance Areas of the LSC Performance Criteria, which cover needs assessment and priority setting, strategic planning, and evaluation; engagement with the low-income community; legal work including private attorney involvement; and program management including board governance, leadership, resource development, and coordination within the delivery system.

Prior to the visit, the team reviewed documents routinely provided to LSC, including applications for funding and renewal, technology and PAI plans, workforce analysis charts, and case service and other services reports. The team also reviewed materials requested from the program in advance of the visit, including documents relating to needs assessment and strategic planning, intake, legal work, case management policies and systems, and board governance and administration, as well as responses to a confidential online staff survey. While on site, the team visited the Bellingham, Everett, Longview, Olympia, Pasco, Seattle, Spokane, Tacoma, Vancouver, Wenatchee, and Yakima offices. Time and distance did not permit the team to visit offices in Aberdeen or Port Angeles, or satellite sites. The team interviewed program leadership and administration, along with most attorneys, paralegals, and administrative and support staff. The team also interviewed several members of the board of directors, judges, bar leaders, community partner representatives, and other members of the state justice community including representatives of the Washington State Access to Justice Board and the Washington State Office of Civil Legal Aid. Some interviews were conducted prior to the visit.

DESCRIPTION OF SERVICE AREA AND PROGRAM OVERVIEW

NJP provides a full range of legal services throughout the state of Washington, a geographically diverse area that includes highly urban as well as vast rural and agricultural expanses. The state's 66,455 square land miles encompass six distinct geographic areas: Olympic Mountains, Coast Range, Puget Sound Lowlands, Cascade Mountains, Columbia Plateau, and Rocky (Columbia) Mountains. The Cascade Mountains to the east and the Puget Sound to the west create geographical separations that heighten overall access challenges.

The population of Washington is culturally diverse. Among the 50 states, it has the fifth-highest percentage of Asians (7.7%), the fourth-highest percentage of Native Hawaiians/Pacific Islanders (0.7%), and the fourth-highest percentage of people who identify as two or more races (4.3%). African Americans comprise 3.9% of the population, and American Indian/Alaska Natives are 1.8%. Washington is also home to 29 federally recognized Indian tribes along with seven non-federally recognized tribes. The 2007-2011 American Community Survey estimates that 4.6% of households in the state are linguistically isolated, with the highest rates of isolation in rural counties: Adams (18.5% of the county population), Franklin (15.7%), and Grant (10.97%). The primary language other than English is Spanish, although in some areas Russian and Asian languages (Vietnamese, Cambodian, Laotian, Mandarin, Cantonese, and Korean) are also common. The state's population is also aging. In 2013, persons age 65 and over comprised 13.6% of the overall population. In some counties, more than one in every four persons is 65 or older. Washington leads the nation in production of apples, cherries, and some other fruits and grains; and it is also a leader in the lumber, livestock, and fishing industries. As a result, the population includes significant numbers of migrant and seasonal farm workers, and reforestation workers.

Census data from 2012 shows 14% of Washington's population living below the poverty level, with the highest number of low-income persons residing in the Seattle area (King, Pierce, and Snohomish counties), and in Spokane county. Poverty rates of minority groups are high: African Americans (26%); Native Americans (30%); Latinos (26%); and Asians (14%). The unemployment rate at the time of the visit was 7% statewide, but in several counties it exceeded 9%, and in some it was as high as 11%.

NJP was established as part of a 1995-1996 initiative conducted at the direction of the Washington Supreme Court and known as the Washington State Plan for the Delivery of Legal Services to Low Income People. The plan is designed to foster coordination and collaboration among providers of legal services to the low-income community. Under this plan, approximately 40 organizations collaborate as members of the Alliance for Equal Justice. These organizations include NJP, Columbia Legal Services, Northwest Immigrant Rights Project, TeamChild (youth law), Legal Action Center (housing), law school clinics, approximately 20 county bar association volunteer lawyer programs, and other statewide and specialty providers around the state. The state funding entity for civil legal services is the Office of Civil Legal Aid (OCLA), an independent judicial branch agency. IOLTA and some other funding streams are administered by the Legal Foundation of Washington. Coordination and oversight of the activities of Alliance members is provided by the Access to Justice Board of the Washington State Bar Association.

NJP is the largest provider of civil legal services in the state, and is the designated recipient of LSC and state funding under the Washington State Plan. In this capacity, NJP operates the Seattle-based CLEAR (Coordinated Legal Education Advice and Referral), a centralized intake, advice, and referral service. NJP also provides a full range of LSC basic field, migrant farmworker, and Native American services out of 13 field (branch) offices and four satellite sites. Senior management and administrative services are in Seattle. The migrant farmworker program operates primarily out of offices in the central part of the state. The Native American unit is based in Seattle. NJP also contracts with the King County 211 system for intake

and referral for residents of that county. At the time of the visit, NJP had approximately 200 staff members, including approximately 116 attorneys, although not all staff are full-time employees.

In 2013, NJP received \$5,618,481 in LSC funding, including \$4,681,957 for basic field services, \$673,432 for migrant services, and \$263,092 for services to Native Americans. These funds comprised approximately 27% of NJP's total 2013 budget of \$20,780,000. In 2013, NJP was awarded LSC Technology Innovation Grants (TIG) totaling \$460,000, which included \$271,800 to house and operate the National Technology Assistance Program (NTAP).¹ Non-LSC funding included IOLTA grants, state appropriations and funding from other federal and state agencies, Area Agencies on Aging, and local communities and organizations. LSC funding to the program (excluding TIGs) dropped \$1,231,236 from 2010 to 2013. In 2014, it will increase to \$6,275,679 – as a result of census adjustments.

The LSC Office of Compliance and Enforcement conducted an on-site CSR/CMS review to NJP in June 2007, and a Follow-up Review (FUR) in May 2011. OPP conducted a Program Engagement Visit in November 2010. This is the first OPP Program Quality Visit to NJP.

SUMMARY OF FINDINGS

NJP is a statewide non-profit law firm that provides superior advocacy on behalf of Washington's low income population. As part of a well-integrated statewide system designed to address the legal needs of low income people, NJP effectively maintains its awareness of changing needs and emergent issues. Strategic planning and self-evaluation are taken seriously, and contribute to the program's effectiveness.

NJP is very engaged with the client population and related service agencies. Its statewide intake system, CLEAR, is a valuable component of NJP's services and the state's integrated service approach. However, applicants attempting to gain entry to the system often experience significant difficulties, and the CLEAR system is in need of some overhauling to be more effective in serving prospective clients. The program intends to replace the phone system, which is 15 years old, and plans to use that event as an opportunity to make other changes to improve client access.

Advocates provide effective representation on a broad range of legal issues. Attorneys are well-trained, supported, and highly valued by the courts and service agencies, as well as by other members of the Alliance for Equal Justice (the network of civil legal aid programs in the state). NJP handles significant matters, and approaches litigation with an eye on emergent issues and on finding the best course to solve problems for large numbers of clients. Advocates are deeply involved in their client communities and participate on both local and statewide boards that deal with matters relevant to their work. The program's excellent advocacy is also apparent in its specialized units for handling migrant and Native American issues.

¹ In 2013, NJP also received TIG disbursements for three ongoing TIGs and for NTAP support.

NJP effectively integrates private attorneys into its work through collaborations with local bar association pro bono components and other volunteer lawyer programs, as well as through subgrants, reduced fee contracts, and individual volunteer opportunities. The program provides these attorneys with support and recognition for their service.

NJP has strong, effective, and committed leaders and an engaged board of directors. Its systems for financial management appear to be sufficient. It makes good use of technology and has plans to make improvements in technology that should bring significant benefits. Program leadership recognizes the need for a human resources director. While fundraising is conducted primarily in collaboration with partner organizations and within the parameters of the state plan, NJP could benefit from working with its board and management to develop strategies for diversity in funding. Overall, NJP is an active and respected leader in the state's integrated approach to legal services for the low-income population.

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. NJP is aware of the critical legal needs of the low-income population of the service area, and responds effectively to issues that emerge between formal needs assessments.

The Washington State Supreme Court Task Force on Civil Equal Justice conducted a statewide legal needs study in 2003. The Washington State Civil Legal Needs Study included a survey of 1,300 low-income residents across the state by researchers from Portland State University; a random telephone survey of 800 residents by Washington State University's Social and Economic Research Services Center; and a series of interviews with stakeholders such as judges, attorneys, court personnel, social service providers, and legal service providers. The findings and recommendations from that study resulted in increased state funding for civil legal aid, expansion of CLEAR, and expansion of legal services in rural areas. The 2003 report also resulted in the creation of a framework for the administration of civil legal aid funding, and led to establishment of the Office of Civil Legal Aid (OCLA), the state funding entity for civil legal services. At the time of the PQV, OCLA had issued a request for proposals to update the 2003 assessment. The RFP has been cancelled, but is scheduled to be re-issued in early 2014.

NJP identifies legal needs emerging between large-scale assessments through an annual survey of community organizations and service providers. This information is compiled and analyzed by staff and provided to the NJP board of directors for consideration in its annual review of program priorities. The program also reviews intake and case data, and considers issues raised by community partners at regional meetings and by staff at outreach sites, among other methods. NJP does not currently use client satisfaction surveys uniformly throughout its service delivery system.

Issues identified during the past three years include abusive foreclosure practices, shortened eligibility periods and reduced benefits in the state general assistance program, termination of TANF assistance for families with an SSI recipient in the household, denial of housing based on credit and eviction record, lack of effective access to the workers' compensation and wage claim systems for Limited English Proficient (LEP) workers, the impact of financial obligations on veterans' access to housing, and access to the justice system for domestic violence survivors in rural areas. NJP has responded by conducting community education on identified issues (*e.g.*, YouTube videos on selected topics in English and Spanish); collaborating with partners to establish self-help and other programs (*e.g.*, courthouse-based Housing Justice Projects to assist tenants in eviction proceedings); and challenging unlawful practices through litigation. NJP also expanded services to rural LEP victims of domestic violence (*e.g.*, Integrated Rural Legal Assistant Program and cultural competency programs for law enforcement); established a medical-legal partnership (Washington Medical-Legal Partnership) in collaboration with two Seattle area hospitals and a non-profit health center; and created a statewide veterans advocacy project staffed by an Equal Justice Works Fellow, four Equal Justice Works/AmeriCorps Fellows, and one Supportive Services for Veteran Families (SSVF) attorney.

In 2012, as the result of a program-wide analysis, NJP identified mitigating the consequences of foreclosure and reducing barriers to employment as requiring additional attention. NJP addressed the first issue by utilizing national attorney general foreclosure settlement funds to create two units, one focused on foreclosure prevention and the other on mitigating foreclosure consequences. The second issue is the current goal of the Strategic Advocacy Focus (SAF) delineated in the strategic plan.

Recommendations

I.1.1.1.² NJP should ensure that client eligible persons in addition to community organizations and service providers are included in its annual legal needs surveys.

I.1.1.2. NJP should consider the use of satisfaction surveys or other mechanisms for obtaining feedback from clients about their experiences with NJP.

² Recommendations in this report will be identified by a Roman Numeral cross-referenced to 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, third recommendation under finding 14. There are two tiers (levels) of recommendations in this report. Recommendations marked with an asterisk* are Tier One Recommendations and are intended to have a direct and major impact on program quality and/or program performance. **In your next grant renewal application or competitive grant application, instead of submitting a full narrative, your program will be required to report what it has done in response to Tier One Recommendations.**

Criteria 2, 3, and 4. Setting goals and objectives, developing strategies and allocating resources; implementation; evaluation and adjustment.

Finding 2: NJP annually sets goals and objectives and develops strategies to achieve them based on available resources.

The NJP board of directors annually reviews the program's priorities, taking into consideration the results of recent legal needs surveys and staff analyses of emerging needs, along with available resources. The priorities are sufficiently broad to address the most pressing legal needs of the low-income population of the service area, and are reflected in the case closures. They include substantive legal issues and levels of service, and provide for emergencies. Staff members are aware of the priorities and adhere to them.

NJP's 2013 priorities for basic field advocacy included access to justice for vulnerable populations (children, families, elderly, disabled, institutionalized and de-institutionalized); support for families; family safety; preservation of housing and related needs; community preservation and economic development; economic stability; driver's license suspension; income maintenance; LSC-permissible immigration; access to quality health care, health and safety; mental health access and care; environmental safety; consumer rights' access to public services; and individual rights. Driver's license suspension and barriers to employment based on state agency determinations of disqualifying conduct were added as a result of strategic planning, discussed below.

NJP's resources appear to be reasonably allocated to meet priorities. Resources are considered on statewide and regional levels, and NJP adheres to a core principle of the Washington state plan by considering the availability of other resources in the community as it determines its priorities and case acceptance guidelines. For example, NJP's priorities do not include unemployment compensation appeals, because those cases are handled statewide by the Unemployment Law Project.

NJP uses case acceptance criteria to further refine the level of service to be provided to eligible clients. For example, NJP provides full representation in child custody cases only where children are at risk of harm; other custody matters are handled with educational materials or pro se assistance. CLEAR, discussed in greater detail in Performance Area Two, also operates according to NJP guidelines to determine when to make a referral, provide legal information, or when limited assistance (including pro se assistance) is warranted. Cases requiring more than limited assistance are referred to field offices or substantive law units, who determine whether to accept the case and the level of service to be provided. Field offices and units tailor their case acceptance guidelines to regional needs and resources, and share them with CLEAR to facilitate referrals.

Finding 3: NJP has adopted a vision and a mission statement, along with a five-year strategic plan to guide its operations in light of that mission and vision.

In 2009, the NJP board of directors adopted vision and mission statements calling upon NJP to secure justice through high quality legal advocacy that promotes the long-term well-being

of low-income individuals, families, and communities. In 2010, NJP began a broad-based evaluation of the program's services, structure, and operations in light of its mission. The process involved the board of directors and staff at all levels. It included an examination of current practices and identification of mission-related needs and gaps in services in four key areas: program structure and operations, advocacy coordination, community engagement, and technology. The workgroups met throughout 2010 and in April 2011 submitted extensive recommendations to an ad hoc committee of the board.

The board of directors adopted *Strategic Plan: 2012-2017* in late 2011. The goals of the plan are to (1) affirmatively identify and address systemic conditions that impact the client communities; (2) strengthen program structure and operations to promote effectiveness as a statewide law firm; and (3) ensure a stable funding base for long-term sustainability.

While implementation of the strategic plan is still in the early stages, it has resulted in the program-wide strategic advocacy focus (SAF), with the first focus on barriers to employment, discussed elsewhere in this report; an emphasis on NJP as a statewide law firm including protocols for collaboration among offices and units; the development of a mentor program for attorneys and paralegals; and an exploration of new systems for collecting data, including outcomes data. Field offices and units have developed annual advocacy and community engagement work plans that will guide the work in achieving goals under the plan and help staff to measure program performance.

Recommendation

I.3.3.1. NJP should continue to implement its strategic plan, making adjustments and modifications as necessary.

Finding 4: NJP evaluates the effectiveness of its work and uses the results to make changes and leverage additional resources.

NJP continually assesses and adjusts its structure and delivery system in response to issues identified in external and internal reports, as well as to emerging needs and resources.

Several aspects of NJP's strategic planning process involve evaluating and, where necessary, adjusting operations. For example, one staff group is evaluating the effectiveness of inter-office task forces. Another is assessing the effectiveness of the different levels of assistance provided in family law cases, including whether clients assisted with self-help forms and resources are achieving necessary results. This effort will utilize text-messaging feedback from clients, with TIG funding from LSC. A third group is examining methods for measuring outcomes of case work.

All offices and substantive units conduct an annual review of their progress in reaching the goals articulated in their annual work plans developed pursuant to the strategic plan. These reviews assess the extent to which objectives have been accomplished; changes in resources that could affect services; changes in client community needs; and the proportion of non-priority applicants since the last review. A comprehensive report on these reviews is submitted to the

quality of practice committee of the board of directors, along with a discussion of each of the criteria and recommendations for board consideration and adoption.

Recommendation

I.3.4.1. NJP should continue to evaluate its operations and their impact on the client community.

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

Criterion 1. Dignity and Sensitivity (Intake).

Finding 5: The statewide intake system, CLEAR, is a valuable component of NJP's services and the state's integrated service approach, but some potential clients experience significant challenges in gaining access to it.

Overview:

NJP's statewide intake component, CLEAR, provides screening, advice, and brief or limited service, as well as referrals to other providers in the state. Program staff and state justice community representatives report that CLEAR has been invaluable in detecting statewide and regional patterns that reveal emergent issues.

CLEAR is supervised by an experienced senior attorney, and is also staffed by an assistant senior attorney who supports supervision of the advocates, two paralegals, 25 attorneys, an attorney screener unit supervisor, and eleven screeners: five full-time and six part-time (at 21 hours per week). The unit also includes a legal assistant and a publications clerk. Pursuant to NJP's strategic plan, CLEAR's operation is overseen by NJP's director of advocacy and general counsel. CLEAR is also assisted by nine volunteer private attorneys who regularly take CLEAR calls from the NJP office.

CLEAR is open for intake Monday through Friday from 9:15 a.m. to 12:30 p.m. Eligibility and priority review are generally conducted by a screener unit, although CLEAR advocates may perform this function if the screener unit is overwhelmed. Depending on the nature of the legal problem and the feasibility of calling the prospective client back, callers are either placed in a queue where they wait to speak with an advocate, or are placed on an internal transfers list in the case management system (CMS), and are called back in chronological order by CLEAR advocates throughout the day. Staff reported that it takes until approximately 1:10 p.m. to respond to and clear all calls from the queue.

CLEAR is configured to address a variety of specific legal issues and applicant needs. Applicants with certain types of legal problems, or those seeking to reach special projects, can access voicemail boxes outside intake hours. There are separate voicemail boxes for Native American issues, public benefits, veterans, seniors, foreclosure issues, King County callers, and Spanish speakers. Applicants with legal needs concerning public benefits or loss of housing can also apply online with CLEAR*Online and request a call-back, which enables them to bypass

busy signals and the time constraints of the CLEAR line. The domestic violence section (CLEAR*DV) also schedules telephonic intake appointments based on referrals from domestic violence advocates. These matters are handled using an attorney-of-the-day call-back model. Individuals with other legal problems are encouraged to fill out the online interview form to expedite intake, but they must still call in and reach a CLEAR advocate. NJP also operates CLEAR*Sr. and CLEAR*ASL (American Sign Language). An interpreter service is used for other languages.

To help CLEAR manage the volume of incoming requests from King County, NJP has contracted with the county's 211 system for screening and referrals on legal issues other than housing and public benefits (which NJP handles). 211 screeners review eligibility and determine the type of legal problem before making referrals to CLEAR or one of the other King County legal services providers. CLEAR provides training to 211 staff and meets periodically with other legal services providers in King County.

CLEAR advocates advise eligible clients, mail legal publications/pro se forms, direct callers to relevant WashingtonLawHelp.org resources, and refer clients to an NJP field office or unit, or to another local legal services provider for additional assistance. They may also engage in limited actions such as drafting documents for pro se litigants or providing additional assistance in certain high priority cases.

CLEAR cases are reviewed on an on-going basis by supervisors who regularly provide feedback to advocates to ensure appropriate, consistent legal service. CLEAR staff also receive in-depth training. Before taking calls, new screeners and CLEAR advocates observe intake interviews and receive extensive training on NJP/CSR policies and procedures and use of the CMS. Advocates learn about legal resource materials; screeners are trained in telephone skills. CLEAR screeners reported that this orientation can last as long as a month. As discussed below, CLEAR volunteer attorneys receive similar training.

The CLEAR phone system is over 15 years old and is in need of replacement. Most critical functions still work, but NJP no longer has access to any analytics data other than real time status information. A recently awarded LSC technology grant will help NJP upgrade its phone system.

Volume, Accessibility, and Client Friendliness:

CLEAR closed more than 10,000 of the approximately 14,000 cases closed by NJP in 2012. CLEAR screeners and the unit supervisor estimated that CLEAR receives 150-200 calls per day, not including evening calls to voicemail boxes. NJP has not tracked this data, primarily due to the limitations of the outdated telephone system. Advocates reported providing services to four to six clients per day. CLEAR*DV advocates typically handle around three calls each day. The number of cases worked on is lower than national norms for high volume intake units, but this is attributable in part to the higher level of assistance provided, the complexity of issues addressed, and other work of CLEAR advocates, including involvement in task forces, drafting briefs for pro se litigants, and leading special projects, such as the implementation of the Affordable Care Act. Many CLEAR advocates reported that they had received positive feedback from limited-assistance clients on the favorable outcomes in their cases.

The CLEAR system, as currently configured, poses significant access challenges for applicants, unless a caller gains access through a specialized unit. Estimates of the average wait to reach a screener varied from 20 to 40-50 minutes, and staff estimated that on a particularly difficult day callers had waits up to 100 minutes in the queue. Staff also reported that the average eligibility screening takes about 10 minutes.

Before and during the visit, one visit team member attempted to contact CLEAR 14 times during CLEAR's open hours. In 11 of these calls, the team member received a message that CLEAR was closed due to high volume. In all other attempts, the CLEAR line would only accept callers for public benefits cases, cases for Spanish speakers, relay operators, and inquiries regarding previous referrals. Access to the general CLEAR line was never available during these attempts. This experience is consistent with what the team heard from community organizations and other stakeholders around the state.

Field offices reported that clients referred to CLEAR have difficulties reaching it, and some offices elect to conduct the intake on local call-ins and walk-ins, particularly for urgent matters, as they are concerned that callers might not be able to get a call through to CLEAR. Sometimes advocates in the outer offices send e-mails to CLEAR requesting that an intake worker call a particular applicant.

A program director of a domestic violence organization characterized CLEAR as working "moderately well." She indicated that her organization coaches their clients on how to get through, telling them to dial continuously and not to hang up if they do get connected. They tell them that the system has heavy traffic and not to get discouraged.

In addition to the access challenges noted above, callers encounter a menu that is complex, with numerous options that can be very specific in terms of both legal issues covered and instructions for obtaining assistance. When a queue is full, callers hear a message to call back at a later time. Callers who reach CLEAR when the lines are temporarily closed hear a short message to call back in a few minutes. Callers on hold in queue are not provided with information about the statewide website or the recently implemented online application. The system does not allow for the playing of recorded messages with legal information or other messaging. There are periods of silence while callers wait.

Branch office use of CLEAR:

CLEAR receives notifications from field offices when those offices need to close intake on selected matters, and uses these notifications to make temporary changes to the handling of calls and referrals. It was evident to the team that CLEAR generally does a good job of making appropriate referrals to the offices based on the needs of the offices as communicated to CLEAR. Some attorneys in field offices indicated that a substantial number of their cases came through direct referrals, outreach, and special projects, rather than through CLEAR. The visit team also heard from staff that in some areas the volume of cases coming into the offices from CLEAR and the 211 system is insufficient, both in number and type, with the result being that attorneys in those offices are redirected to other substantive practice areas.

It was generally acknowledged that CLEAR takes an enormous burden off the offices, but in some offices staff members felt that the limited hours for intake exact too much of a cost on clients.

Recommendations

II.1.5.1.* NJP should assess and consider all options for increasing the availability of telephone-based intake, including (a) the use of law students and practitioners under Washington State's new Limited License Legal Technicians Rule (Admission to Practice Rule (APR) 28),³ and (b) the continued enhancement of online intake and triage on the NJP and WashingtonLawHelp.org websites.

II.1.5.2.* As resources permit, NJP should consider conducting a business process analysis of the CLEAR system and statewide intake process. Business process analysis is the activity of reviewing existing practices and changing these practices so that they fit with new technologies and improved processes. The upgrade of the CLEAR phone system provides an excellent opportunity to step back and analyze the entire intake process. NJP should also look at the usability of the phone trees within CLEAR, as many are complex and can confuse callers.

II.1.5.3.* NJP should expand its use of internal reporting and conduct regular evaluations of CLEAR data. Reporting on metrics such as volume of calls, calls handled, calls abandoned, queue functionality, busy signals, and overall wait times will all be helpful as CLEAR develops ways to operate more effectively.

II.1.5.4.* NJP should collect and evaluate data on the applicant experience at CLEAR, including data on the success rate in contacting applicants by callback, the amount of staff time spent on callbacks, and the percentage of cases referred to branch offices that are accepted for service and those that are declined.

II.1.5.5.* After the new phone system is operational, NJP should prioritize the feature allowing for automatic caller directed (IVR) callbacks and other features to provide estimated wait times, estimated callback time, and scheduled callbacks, if possible.

II.1.5.6. NJP should consider providing simple advice in cases that do not rise to the level of current CLEAR advocate case handling. Staffing this stage of service could be accomplished with 2nd or 3rd year law students, paralegals (or paralegal students), and recent graduates/newly licensed pro bono attorneys. With the implementation of the new phone system, staff in outer offices might be recruited to take calls at CLEAR, in some cases for callers residing in their geographic region. This approach would supplement the extensive casework of CLEAR advocates and mirror some of the traditional telephone intake and advice delivery systems currently in place. This stage of service could also be the groundwork for experimenting with queued calls since the services provided would be less likely to require additional research or other work beyond the provision of advice and the mailing of publications.

³ See, http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaapr28

II.1.5.7. NJP should develop an outcomes-tracking system for CLEAR, as well as 211 and the services provided by and through King County legal services partners. The planned text-for-outcomes functionality of the new phone system represents a good start on this initiative. Given that CLEAR advocates often provide involved, robust services to callers, a comprehensive outcomes tracking system might better demonstrate the quality of CLEAR services.

II.1.5.8. NJP should consider the utilization of document assembly, especially at CLEAR, to help advocates provide services more expeditiously and thus increase availability. Routine documents should be automated either through Legal Server or a commercial document assembly application such as HotDocs. SharePoint, the internal knowledge management system, may provide NJP with an avenue to better understand their written legal materials or client documents that are prepared routinely through CLEAR, as well as the variations in those documents. *(See, Technology in Performance Area Four.)*

Criteria 2 and 3. Engagement with, access and utilization by the low-income population.

Finding 6: NJP is actively engaged with the client population and provides broad opportunities for that population to access and make use of its services.

NJP provides broad access for the state's diverse population. NJP's offices are distributed across the state in a pattern that offers clients relative equity of access. The offices are located in population centers and on major lines of public transportation. Several are co-located with other organizations. Offices have a professional appearance and are welcoming to clients. Parking is readily available. All offices are accessible to persons with physical access challenges.

NJP is effective in reaching the various client constituencies in the service area. Each office has a Community Engagement Work Plan. In addition to reaching populations for whom special LSC funding is allocated (Native Americans, migrant farmworkers), staff members regularly conduct client presentations to seniors, domestic violence victims, mental health providers, homeless coalitions, veterans, and reentry coalitions. They use the media to reach broad audiences via local television and radio shows and local newspaper columns covering topics of interest to the low-income community. The program's website (www.nwjustice.org) is another way clients can learn about NJP, its services, entry into the system, and other legal aid providers. The website is available in English and Spanish and, on a more limited basis, in a variety of other languages. The website also includes links to several NJP-produced YouTube videos providing community legal information. Staff members are actively involved in reaching the LEP population and participate in the Washington State Coalition for Language Access. The program has informational brochures in 23 languages. *See Performance Area Three, Criteria 3 and 4, for additional information concerning client engagement.*

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

Criterion 1. Legal Representation.

Finding 7: Although some modifications could enhance NJP's efforts, the program's impressive advocacy makes a significant difference in the lives of its clients and is highly valuable to the statewide justice system.

Staffing and Expertise

Under the direction of NJP's director of advocacy and general counsel, the firm provides legal representation out of 13 basic field offices, four satellite offices, and, to a more limited extent, in CLEAR. The program has three advocacy coordinators outside of the chain of command who are responsible for providing general litigation support and advice. At the time of the visit one of these positions was vacant.

NJP has an experienced advocacy staff that is committed to the program's mission. Of the program's 108 attorneys, 80% have over 5 years' experience and 20% have over 20 years' experience. Many attorneys in the program are highly regarded in the state justice system and by local judges for their expertise in certain subject areas. NJP attorneys have a significant presence throughout the state and are often presenters at CLE events. Within the program's fiscal limitations, offices are sufficiently staffed to meet program objectives, and the staff appears to be equitably distributed across the service area, with the exception that the Pasco office may be understaffed for its poverty population.

Quality and Quantity of Legal Work

The visit team interviewed 16 judges or commissioners and 92 attorneys, excluding those in upper management. From these interviews and an evaluation of the writing samples, it was apparent to the team that NJP's advocates provide high quality legal work in each of the program's priorities in a wide range of forums; including the state's Supreme Court and Court of Appeals, federal district court, courts of record, and administrative agencies, including some that are outside the usual administrative settings for legal services work, such as the Federal Transportation Administration Office of Civil Rights. The writing samples revealed aggressive, well-researched advocacy. Writing samples also demonstrate that the program employs the full range of litigation tools and methods to achieve results for its clients, from motions for summary judgment to requests for mediation. NJP vigorously pursues and receives attorney fees – sometimes substantial – in fee shifting cases. In many instances, the program handles cases that have significant impact for the client population through agency acquiescence or *stare decisis*:

- The program coordinated a statewide effort to document the various ways courts failed to implement the Supreme Court rule that all indigent persons are entitled to fee waivers for all civil cases, which had been flagrantly violated by local courts from its inception. The program also filed an amicus brief on the issue. The resulting Supreme Court ruling reestablished and reinforced the rule.

- The program also orchestrated an effort that led to federal litigation against the state's Health Care Authority (HCA) to establish the right of children with autism to receive Medicaid coverage for a specialized treatment.
- In the housing/consumer area, the program won a state Supreme Court decision holding that Washington's Deed of Trust Act creates affirmative fiduciary obligations on foreclosure trustees to act in the best interests of homeowners and clarified that the state Consumer Protection Act (CPA) contemplates unfair *or* deceptive acts or practices violate the CPA. According to the program, that holding "effectively eliminated robo-signing foreclosures in Washington and extended CPA remedies to homeowners victimized by unscrupulous trustees, lenders and servicers."

The comments of one judge typify the appreciation of the bench for NJP attorneys. Indicating that they are a real asset to the courts, he was able to name advocates who appear before him, and stated they are as good as or better than the private bar in those cases. He values their expertise and noted that they seem to take the more difficult cases, stating further that their written materials are of high quality and their arguments cogent; they are pragmatic, undeterred, skillful with difficult people, and respectful to their clients.

NJP's overall approach to casework is strategic. The offices and units of NJP have embraced the strategic advocacy focus mentioned under Finding 3. Management encourages and supports aggressive advocacy, including appeals and affirmative litigation. A staff attorney reported that part of her personal development plan is to get a case into the Court of Appeals. Advocacy coordinators are accessible to advocates and are well-respected, but as a general rule provide more individual case support than coordination and leadership on major advocacy work. Some attorneys indicated that the program needs more advocacy coordinators and litigation support. Attorneys make significant use of substantive law task force expertise. All attorneys are required to serve on at least one task force.

The program's aggressive and comprehensive approach to advocacy is reflected in a variety of projects designed to address specific legal issues in a concentrated manner. For example, in the Consumer Advocacy Program, an attorney stands in the back of the courtroom for the collections docket and the court clerk announces his presence. Litigants may choose to apply for NJP assistance on-site. Considerable success is reported in preventing the entry of judgments against clients identified in this program. The Housing Justice Project similarly uses volunteer attorneys to assist with the landlord tenant docket twice a month. The statewide Foreclosure Prevention Unit has gained substantial expertise and is handling some fairly sophisticated work. Staff in this unit, which has members in Bellingham, Everett, Seattle, Spokane, Tacoma, Vancouver, and Yakima, described significant and frequent communication and networking, including a weekly statewide video case review meeting.

NJP closed 14,023 LSC-reportable cases in 2012, an 11.2% drop from the previous figure of 15,787. This decline is consistent with the national case-closure decrease which followed a substantial drop in LSC funding. At NJP, the total drop in LSC funding was approximately 14.5%. The three substantive areas with the highest case closures were family (40%), housing (28%), and consumer (13%). NJP's extended case output is below the national norm for LSC grantees. Of the 3,277 cases that were handled by offices and units other than CLEAR, 1,041 (32%) were in the extended work category. While NJP's total closed cases per 10,000 poor

persons (260) are above the national median (245), its extended (19) and contested (11) case closures are well below the national medians of 57 and 28, respectively. These low figures may be attributable to the low number of referrals from CLEAR to units and field offices, the complexity of the cases being handled, staff's community engagement and other work on behalf of the client population (e.g., participation on agency boards), and low caseloads. The latter issue is discussed in the next section.

Legal Work Management and Supervision

The program has no uniform legal work management or case handling protocols except for the procedures contained in the recently issued Senior Attorney Manual, which are not being uniformly adhered to even by the senior attorneys. The frequency of review of individual advocates' cases varies significantly among offices. Case closures are often reviewed only at the end of the year and sometimes solely for compliance and not quality. Tickler systems vary significantly among offices, as does the degree of discretion granted to advocates regarding case acceptance decisions. Individual offices do appear to conduct fairly regular weekly case acceptance meetings. Advocates second-chair one another on cases requiring it, or senior attorneys do so. There is a monthly meeting of senior attorneys. Advocacy coordinators review the cases of the senior attorneys.

NJP does not appear to have an articulated standard for caseload size or composition. Although there are no national norms, individual caseloads appear to be low (in many instances, fewer than 20 open cases). In part, low caseloads appeared to be due to the complexity of cases, extensive community engagement, or special projects. However, in some instances, there appeared to be no explanation. One staff attorney suggested that there are too many meetings that interfere with casework. A senior attorney felt that the caseloads are appropriate as long as the cases are rapidly turned over, and that the lower caseloads prevent burn out. Some staff volunteered that they could be handling more cases, and a few opined that a sufficient number and/or type of cases were not coming through intake; others suggested that additional outreach is necessary.

Training, Support, and Resources

Most staff attorneys – consistent with the team's findings – felt that they were well-supported by the program in their work. Expertise was regarded as very accessible through a variety of sources, including task forces, listservs, mentors, the program's "Lit Kits" on specific areas of law, and the highly regarded brief bank on the intranet. The program readily provides litigation funds. Several attorneys remarked on the value of video-conferencing. Others were complimentary about the contribution of their legal assistants to their work. Several attorneys noted that the Westlaw subscription is somewhat limited, but were pleased overall with the level of support shown in other ways, including a \$2,000 annual loan forgiveness program for attorneys.

NJP offers a variety of training opportunities for staff. At the time of this visit, several attorneys in the program had just returned from the annual National Consumer Law Center training in Washington, DC. Attorneys also attend training events of the Alliance for Equal

Justice, as well as specialized events for particular subject areas, such as the Foreclosure Boot Camp. Non-advocacy staff regularly attend training opportunities, including a monthly program designed to enhance computer and other skills, and quarterly legal assistants meetings. Accounting and technology staff regularly attend state and national conferences, and have served as presenters. Despite the efforts to train existing staff members, there is no regular process for new staff orientation.

Recommendations

III.1.7.1.* NJP should review the size of advocates' caseloads to determine whether they are appropriate, and should make adjustments as necessary.

III.1.7.2.* NJP should build upon its current supervisory standards, develop case handling standards, and take action to ensure that these standards are followed.

III.1.7.3. NJP should consider expanding the advocacy coordinators' roles to include more direction of major litigation efforts and, as resources allow, filling the vacant advocacy coordinator position.

III.1.7.4. NJP should ensure that new hires are sufficiently and uniformly oriented.

III.1.7.5. NJP should ensure that ratios of attorneys to poverty population are equitable throughout the service area.

Migrant Farm Worker Unit (FWU)

FWU staff members are located in Wenatchee (fruit growing region) and Yakima (agricultural center for Yakima valley), and coordinate with other offices as necessary. The Yakima office houses four FWU attorneys, including the unit's senior attorney. The senior attorney and one other attorney are very experienced, one attorney has just been admitted to the Washington bar, and the fourth attorney was admitted in 2011. The Wenatchee office houses one experienced attorney who works part-time for the FWU. The unit also includes a community worker who works from Yakima, and three secretarial staff. The FWU is funded exclusively with LSC monies; state funding may not be used for the unit's work.

Farm work has become a year round activity in Washington, and many farm workers no longer migrate. Apples, berries, and wine grapes are the largest crops in the state. In the last several years the state has seen a tremendous growth in the number of H2A contracts. This past year 6,000 H2A visas were issued, compared to 2,000 a few years ago. Most of the H2A workers are from Mexico. The FWU monitors visa applications on behalf of domestic farm workers to ensure that these applications are not taking jobs from domestic workers and that appropriate procedures have been followed in the application process. The majority of the FWU's cases come through outreach visits, walk-ins to the Yakima office, or from a community group or agency referral. Farm worker walk-ins are not referred to CLEAR. Rather, the intake is completed in Yakima. However, at times some cases have arisen through CLEAR.

The FWU's broad priorities are: access to public benefits and other services; enhancing economic stability, health and safety; access to and preservation of farm worker housing; and consumer and other protections from unfair and abusive practices. More recently the unit has been focusing on H2A contract enforcement, sexual harassment of farm worker women, FMLA violations in agriculture employment, and lack of access to workers' compensation benefits for H2A workers. NJP is the only legal group in the state handling individual farm worker employment law cases.

The FWU actively engages with the farm worker population and constantly assesses emerging issues through weekly staff meetings, outreach visits to labor camps during the harvest season, relationships with other agencies serving farm workers, and community education presentations to farm workers. Each year the community worker prepares an outreach plan to be followed during the harvest season. This plan describes when visits will be made to the labor camps. During an outreach visit, the unit's newspaper, *El Faro Legal*, is distributed along with business cards. Farm worker rights and the work of NJP's FWU are discussed. The unit has very good relationships with other agencies serving farm workers as well as the local Spanish radio stations. All of the FWU's full-time staff speak Spanish fluently. The staff is 80% Hispanic; 97% of the FWU's clients are Hispanic.

The FWU is well-managed. The senior attorney conducts monthly case reviews with her staff and engages in regular case discussions with the two less experienced attorneys in the Yakima office. She is also knowledgeable of the status of the open cases.

The staff is also well-trained. FWU staff members regularly attend the biannual farm worker national conference. They have also appeared as trainers at that conference. Staff regularly attend internal trainings offered by NJP and others. The FWU senior attorney leads the farm worker/employment task force, which meets quarterly. The task force also includes attorneys from Columbia Legal Services, one of the non-LSC programs in the state. Trainings are often part of the task force meeting. For example, trainings have been held on *motions in limine* and how to overcome prejudices the public may have about sexual harassment victims. FWU attorneys observed that they found trial skills trainings to have been particularly useful to their recent work.

The FWU engages in significant, complex federal court litigation. Case closures vary depending on the character of the litigation -- 138 in 2010; 51 in 2011; 84 in 2012. Approximately a third of the cases closed in the last two years have involved extended work. In the Yakima office 61% of the closures are extended work. The cases overwhelmingly involve employment law.

One example of the FWU's litigation is a case filed in 2010 that culminated in a two and a half week federal court jury trial in early 2013. The case was co-counseled with the EEOC. NJP's clients were women who claimed that they were sexually harassed by an employee of a major Washington fruit grower. NJP invested significant resources to litigate the case. Over 1000 pleadings were filed. The lead attorney from the FWU worked almost full-time on the case from 2010-2013. Another FWU attorney spent a significant amount of time in 2012 and part of 2013 on the case, up to the completion of post-trial briefs. Non-FWU NJP attorneys were

periodically asked to help or volunteered to help on the case. A contract attorney was hired for six months, and a paralegal was hired temporarily to do case mapping of the facts and organizing depositions, proofing briefs, and reviewing depositions. Special software was purchased to organize the depositions. Unfortunately, plaintiffs received an unfavorable decision, but the case will be appealed. In a related matter, in 2011, the court that heard the fruit grower case ruled that retaliation claims had to be tried as a separate case. This case ended in summary judgment for the defendants this summer. It will be appealed. In 2012, NJP settled two other cases involving unpaid wages against the same fruit grower on the eve of a federal court trial. These cases also involved significant discovery and briefing up to trial.

The FWU is currently engaged in a project with a local university examining the selection of jurors in federal court litigation. The goal of the project is to ascertain whether and why Hispanics are kept out of that pool. As an example, there was only one Hispanic in the jury pool of the case discussed above, although the Eastern District of Washington is 32% Hispanic.

In the last few years, due to the unit's involvement in complex federal litigation, it did not develop a comprehensive work plan. However, with much of this litigation concluded, the unit is developing a work plan for 2014.

Recommendation

III.1.7.7. As part of its 2014 work planning, the FWU should assess lessons learned from major litigation that can be applied to comparable future litigation.

Native American Advocacy (NAU)

The NAU is located in Seattle and staffed by 3 attorneys, a legal assistant, and a part-time screener. At the time of the visit it also included an extern from Cornell University Law School. The Seattle location is appropriate given the large urban Native American population in King County and the scattered locations of the 29 federally recognized tribes. In addition to unit staff, attorneys throughout the service area represent Native American clients in both status cases and in cases that are otherwise within basic field priorities in tribal and state courts. Two of three attorneys in the unit are enrolled members of Native American tribes. The third attorney focused on Federal Indian Law and its cultural context while in law school. The extern is from Seattle and an enrolled tribal member. All unit attorneys are members of the Northwest Indian Bar Association.

Priorities for the NAU deal with issues faced by Native Americans because of their status as a Native American rather than their ethnicity. These include: Indian Child Welfare Act issues; disparate treatment of Indian children in public schools; enforcement of exempt status of funds received by Native Americans for benefits calculations; employment issues, including wrongful termination from tribal entities; domestic violence cases both in tribal and state courts, with assistance beyond advice and brief service handled by field offices; wills for elders to prevent further fractionalization of land allotments.

The NAU uses collaborations with other organizations and its own outreach and intake to effectively identify emerging needs, and it makes adjustments to its services as needed. Strategic planning sessions conducted with the Native American Task Force, which includes social service and advocacy groups, produced three additional subjects for priority treatment: restoration of drivers' licenses, removal of administrative barriers to employment, and economic development. Each of the three lawyers in the unit is responsible for one of the three areas.

NAU intake is conducted largely through a dedicated telephone line and voicemail system. The process was recently changed so that only Native American callers with status issues are sent to the NAU voicemail. Previously, callers who identified themselves as Native American were sent to the NAU even if their legal problem was unrelated to their status, *e.g.*, an eviction for non-payment of rent in a private rental unit in Seattle. Under the current system, voicemail messages are returned within two days by the NAU intake attorney for Native American issues, who screens for eligibility and provides advice and brief service. Cases requiring more extended services are presented at the NAU weekly case meeting. The NAU intake attorney may also forward the case to the appropriate field office. The NAU intake attorney indicated that she averages three Native American calls a day. NAU and field office staff also conduct outreach to Native American organizations and tribes, including clinics at Native American tribal and social service sites. Field offices also receive Native American cases through direct intakes, outreach, and referrals from local sources.

One significant issue that has emerged recently concerns whether federal settlement funds paid to tribal members can be exempted from eligibility calculations for public benefits, including housing subsidies. The Colville Tribe is one of the first to make such payments. NJP is representing tribal members in challenging housing authorities that raise rents for Section 8 voucher holders by incorrectly including settlement funds in income calculations. Staff members hope to educate agencies and establish legal precedents, thereby avoiding this issue when other tribes pay out settlement funds in the future.

The NAU senior attorney's focus is economic development. With the assistance of a pro bono attorney, she is helping to establish a non-profit organization that would license native artists and provide a logo that authenticates their work as Native American. Currently, many of the arts and crafts attributed to Native Americans are produced in China, making it difficult for native artists to make a living.

NJP provides high quality services to Native American clients in both state and tribal courts. In litigation, the staff uses a full array of tools, including discovery with depositions and expert witnesses. Appeals are taken when necessary. The writing samples were well written and demonstrated a command of the applicable law and a sophisticated approach to the issues. The senior attorney in Port Angeles was recently honored by the Quileute tribe's elders for his Native American advocacy.

Caseloads vary among advocates, but, with the exception of the service offices, the number of cases for unit attorneys appears to be low. 2012 was the first year the senior attorney carried a case load, and at the time of the visit, the senior attorney had three cases. The two staff

attorneys had a combined total of 28 open cases at the time of the visit. However, both attorneys recently returned from leave and one works 3 days a week.

Recommendations

III.1.7.8. NJP should review the caseloads of the NAU to determine whether they are appropriate.

III.1.7.9. Although the Native American Unit does not have a PAI obligation, it is encouraged to look for opportunities for private attorney participation as a way to expand resources and to tap into expertise that it may not have within its own staff.

Criterion 2. Private attorney involvement.

Finding 8: NJP effectively integrates private attorneys into its work through collaborations with local bar association pro bono components and other volunteer lawyer programs, as well as through subgrants, reduced fee contracts, and individual volunteer opportunities. The program provides these attorneys with support and recognition for their service.⁴

The Washington state plan assigns primary responsibility for the provision of pro bono legal assistance, to a network of more than 20 bar association affiliated volunteer lawyer programs (VLPs) funded by the Legal Foundation of Washington. VLPs operate a variety of pro bono models including advice clinics, limited and unbundled assistance, and referrals to individual attorneys for extended representation. CLEAR is designated as the primary access point for pro bono legal assistance, and is charged with screening applicants for LSC eligibility, assessing the cases for merit, creating a case summary, and making appropriate referrals to VLPs. Those referrals are transmitted electronically. Once a referral is made to a VLP, NJP has no further involvement in the case. However, NJP does receive reports from VLPs on the number of people referred who are matched with a volunteer attorney. VLPs are being encouraged to align their priorities with those of NJP and other legal services programs to facilitate referrals and improve services for clients.

NJP provides training and case consultation to VLPs and their volunteers, and maintains the pro bono website at www.advocateresourcecenter.org. NJP staff members maintain close relationships with VLPs. CLEAR staff members are designated as liaisons to certain VLPs, and staff from field offices serve on VLP boards of directors. CLEAR liaisons meet at least twice a year with the staff of the VLP to which they are assigned.

NJP makes an effort to include private attorneys in its work in other ways. It operates a statewide compensated attorney program (CAP). CAP was established to handle conflicts and

⁴ This report does not address the issue of the degree to which the costs of screening and referring eligible individuals to volunteer lawyer programs can be allocated to NJP's PAI obligation. LSC has granted NJP a partial waiver of its 45 CFR § 1614.6(3) expenditure requirement pending resolution of a 2007 corrective action concerning this issue.

serve clients in areas of the state where there was no field office capacity, but now that there are more NJP offices in rural areas, it operates as an adjunct to field offices and to CLEAR. CAP currently includes approximately 60 participating attorneys, including solo practitioners and lawyers in small and midsize firms. In 2013, there were two CAP subgrants; in 2014, there will be five, one of which is with a firm that interviews applicants with whom NJP has a conflict. Cases handled by CAP attorneys tend to be more complex than those referred through a VLP. Before placing a case with a CAP participating attorney, the CAP manager reviews the case for compliance with LSC and other funder requirements, assesses its merits, conducts any necessary follow-up with the client, contacts the CAP attorney, and if all is in order, makes the referral. The CAP manager obtains regular updates on these cases, and provides substantive and other support to the CAP attorney.

In addition to referrals to VLPs and to CAP, NJP utilizes pro bono attorneys (including emeritus and otherwise non-practicing attorneys) in CLEAR, in individual offices including Tacoma and Omak, and in special projects such as the Washington Medical-Legal Partnership and the Foreclosure Prevention Unit. CLEAR volunteers serve as CLEAR advocates on family law issues. CLEAR volunteers include retired lawyers, solo practitioners, and lawyers who have young children and are not in active practice. The volunteer in Tacoma is a retired Court of Appeals Commissioner. Some private attorneys have co-counseled with NJP attorneys. NJP also benefits from the assistance of law students, particularly in Seattle and Spokane. For example, students volunteering with the Incarcerated Mothers Advocacy Project at the University of Washington School of Law collaborate with NJP's Reentry Initiated through Services and Education (RISE) Project, to assist formerly incarcerated mothers reunify with their children. Law students conduct educational programs and perform legal research for this project.

Under the state plan, VLPs have primary responsibility for recruiting volunteer attorneys, but NJP also engages in some recruitment activities. The NJP website includes an announcement of volunteer opportunities and an application. CAP attorneys and in-house volunteers also come to NJP through peer referrals from current participants, and from volunteer lawyer programs. NJP staff interview prospective volunteers and CAP attorneys to determine their interests and areas of expertise; staff members also confirm that they are in good standing with the state bar.

NJP has written protocols for all aspects of its PAI activities, and those protocols appear to be followed. Staff members involved in PAI activities are experienced lawyers who are enthusiastic about working with volunteers. They also have the support of program leadership. Overall supervision of PAI is the responsibility of the director of strategic initiatives, a senior level manager. The CAP program is administered by an experienced attorney in the Seattle office, and CLEAR volunteer attorneys are coordinated and supervised by two experienced attorneys who each also work part-time as CLEAR advocates. In field offices, supervision of in-house volunteers is provided by supervising attorneys. Volunteer attorneys have access to training and other support through NJP and other state partners. They also receive malpractice coverage from NJP.

As a consequence of NJP's role as the statewide screening and referral entity, the number of PAI cases it reports to LSC per 10,000 poor persons is significantly lower than the national median. In 2012, NJP reported closing 252 PAI cases, or 5 cases per 10,000 poor persons. The

national median was 22. Of NJP's PAI cases, 92.5% were family law and the same percentage -- 92.5% -- involved limited services. However, NJP does collect reports from the VLPs on the number of LSC-eligible cases referred to VLPs in which legal assistance is subsequently provided. In 2012, there were 3,224 such cases, and in 2013 there were 2,424.

Recommendation

III.2.8.1. NJP is encouraged to continue to seek opportunities to involve private attorneys, law students, and other appropriate volunteers in its work.

Criteria 3 and 4. Other services and activities to and on behalf of eligible client population.

Finding 9: NJP engages in a myriad of other services and activities that provide education, access, and advocacy for the low-income population of Washington.

NJP is committed to providing a full range of services and activities for its client community. Advocates' job descriptions include various functions that recognize the need for active and ongoing community involvement in addition to handling case responsibilities. While each office's Community Engagement Work Plan, discussed in Finding 6 above, furnishes the framework for other services and activities in an offices' region, individual advocacy work plans provide specific goals for each advocate in such areas as community education, pro se assistance, and collaborative efforts.

Each NJP office is highly engaged in local community education efforts for both clients and service providers alike.⁵ Staff members regularly conduct client presentations at schools, senior centers, domestic violence shelters, libraries, and low-income housing projects on a variety of legal topics. Staffers often appear on local television and radio shows, and they contribute to local newspaper columns covering topics of interest to the low-income community. Additionally, offices routinely make presentations to local service providers such as area agencies on aging, housing authorities, mental health clinics, and child support enforcement offices on issues affecting their joint clientele.

Apart from general legal education presentations, a number of offices conduct, staff, and/or coordinate pro-se clinics such as the Spokane divorce/parenting plan clinic, the King County cross-cultural family law clinic, and court-based Housing Justice Projects in Olympia, Vancouver, Wenatchee, and Spokane. While local volunteer lawyer programs have primary responsibility for conducting various pro-se clinics throughout the state, NJP advocates often assist in those efforts.

NJP's largest pro se effort, however, is the vast library of self-help materials available on WashingtonLawHelp.org, a joint project of Washington State's equal justice partners that is

⁵ While NJP's response to the PQV document request reflected hundreds of community education presentations statewide over the 12 months preceding the visit, the program's 2012 Other Services Report (Form M) submitted to LSC on an annual basis, listed only a limited number of community presentations. It would behoove NJP to fully capture and, in turn, report such other services in order to fully inform LSC as to the breadth of its work.

staffed by a two person NJP team. The site is modern, well-designed, and features a robust library of self-help resources, including videos and document assembly interviews. The website team is finalizing a mobile optimized version of the site that it plans to roll out in the next few months. Considerable effort is also made to ensure that content is up-to-date and written in plain language. NJP reports that in 2012 there were more than 300,000 downloads of self-help/pro se materials from the site.

NJP staff members are also highly involved in Washington's Plain Talk Project, which is working towards making family law court forms more easily understandable for self-represented litigants. In a similar vein, a number of staff members are active participants in the Washington State Coalition for Language Access which seeks to provide translators, interpreters, and other enhanced resources for the LEP population.

Program staff are also engaged in numerous local coalitions and collaborative efforts addressing the needs of various client constituencies. In addition to the statewide activities described in Performance Area 4 Criteria 8 and 9, examples include involvement in local community resource networks, homeless coalitions, affordable care act enrollment planning groups, human service council boards, regional planning commissions, reentry coalitions, prevention of violence coalitions, and asset building coalitions. Advocates are similarly engaged in local bar efforts that effect the client population including membership in substantive law sections and diversity committees. A number of NJP attorneys are, or have been, local bar officers.

PERFORMANCE AREA FOUR. Effectiveness of Governance, Leadership, Administration

Criterion 1. Board governance.

Finding 10: The NJP board of directors is appropriately diverse and representative of the service area, committed to the program and its mission, and provides effective oversight.

The current NJP board is diverse and includes lawyers who are Asian American, African American, Native American, and Caucasian. Two of the three client eligible members are Hispanic. At least one member is a person with a disability. The board recently recruited an attorney member with experience appropriate to designate her as a financial expert. Members are also representative of the service area. Committees include executive, audit and budget, board development, human resources, and quality of practice. Officer roles are clearly defined in "job descriptions" adopted in 2013. At the time of the visit, the board consisted of 12 members, and it will expand to 15 members in 2014 to add expertise and increase geographic diversity.⁶ The appointment process is designed to secure nominations of persons with a demonstrated commitment to civil legal services. It is a reflection of the legal community's high regard for NJP that 33 attorneys applied for a recent appointment from the Washington State Bar Association. There were no board member vacancies until the death of a client eligible member the week prior to this visit.

⁶ The by-laws permit expansion to 18 members.

Interviews with members and a review of board minutes reflect a high level of participation in quarterly meetings, committee meetings, and conference calls. Members expressed respect for the perspectives and opinions of their colleagues and a genuine desire to take these varied insights into consideration when they deliberate. This respect extends to client eligible members, who serve on all committees and as officers of the board. The current treasurer/chair of the audit and budget committee is a client member, and a client member recently chaired the quality of practice committee.

The board has policies and guidelines in place to ensure smooth operations and effective oversight. Written policies address conflicts and potential conflicts of interest and term limits, and there is a code of conduct for meetings. New board members receive orientation on such topics as the role of the board, potential conflicts of interest, the LSC regulations, and on fiscal, fiduciary, and other responsibilities. In 2013, all board members participated in a facilitated retreat that included training on director and officer liability in a non-profit organization. Members have access to a password protected intranet site that includes by-laws, policies, and other governance materials, and meeting materials.

The board and committees meet quarterly, in person and by videoconference. Meetings address business appropriate for board consideration and action, *e.g.*, selection of an auditor, review of Form 990 and Form 5500, and discussion of external reports such as those of OCE or OCLA. The audit and budget committee works closely with fiscal staff, and also meets with the auditors. Staff provides the board with comprehensive written reports on operational activities and policy matters for consideration, *e.g.*, financial reports, executive director reports, priorities reports, reports on the strategic plan, budget, etc. Each meeting also includes presentations by individual staff members about their work. Board members are encouraged to visit their local NJP office, and they are invited to attend the annual staff retreat. The executive director is in weekly communication with the board chair, and in regular communication with other members as needed. He prepares a written report for each board meeting.

The board evaluates the executive director every two years with input from staff, external partners, community stakeholders, and others. The evaluation includes a two-year work plan that is approved by the board. The board adopted a vision and mission statement for the program and established an ad hoc committee to work with staff in the development of the strategic plan. Led by the board development committee, the board is considering measures for developing new leaders within the board, including a “board buddy” mentoring system. The board has not planned for executive leadership succession other than in the context of continuation of operations.

As discussed throughout this report, NJP is a partner in the integrated Washington state plan. As such, the NJP board participates in the unified statewide Campaign for Equal Justice. Board members also communicate with state legislators in support of NJP’s state funding, and support other development efforts. While the board has considered various other options for resource development, it has not yet developed a development plan.

Recommendations

IV.1.10.1. The NJP board should develop plans for executive and board leadership succession.

IV.1.10.2. The NJP board is urged to develop and pursue a resource development plan.

Criteria 2 and 3. Leadership, management and administration.

Finding 11: NJP leadership includes a strong and respected executive director and management team.

The executive director of NJP was hired in 2007, following the retirement of the founding director. He set out to reinforce the notion of a unified, statewide law firm. In so doing, he worked with the board and staff to cast a new vision and mission statement that embodies the values of strategically changing the lives of clients and community. The staff has embraced this vision and mission.

NJP leadership currently rests with a team comprised of five individuals who are recognized by staff and others as key to the organization. The team includes the executive director, director of advocacy and general counsel, director of strategic initiatives, director of program administration, and director of finance. Each has had a long and effective career in civil legal services, and each has earned a reputation for excellence. The executive director focuses on external relations with ATJ, WSBA, the state legislature, OCLA and the courts. The director of advocacy's responsibilities includes internal implementation of goals of the strategic plan – e.g. the SAF. The director of finance is responsible for the budget and for financial aspects of funding proposals. The director of administration is responsible for office operations, including technology maintenance and expansion, along with some aspects of human resource administration. The director of administration launched CLEAR, and is responsible for PAI coordination, for the SharePoint based internal information system (IKE), and for the new outcomes project. Given their seniority and experience, it is likely that one or more members of this team will retire within the next few years.

Finding 12: NJP provides opportunities for leadership development through its structure of senior attorneys and advocacy coordinators, and through training, mentoring, and work on special projects.

NJP leadership recognizes the value of succession planning but is also cognizant of the challenge in replacing long-time leaders and managers who have intimate awareness of operations. While it has not adopted a formal leadership succession plan, NJP is creating opportunities for the development of new leaders across the program. For example, some positions, such as the senior attorney for CLEAR, are paired with assistants who may become appropriate candidates to succeed the incumbents. The staff is encouraged to take leadership roles on staff committees and to assume responsibility for projects. They are also encouraged to participate in community activities, such as serving on boards of local VLPs, on state bar or ATJ board committees. NJP has also supported enrollment of selected staff attorneys in the WSBA Leadership Institute at the University of Washington, a forum for developing minority leaders in

the legal community. And recently, three NJP attorneys attended the Access to Justice Board's Washington Equal Justice Community Development Leadership Academy (Leadership Academy) at Seattle University School of Law.

Senior attorneys are responsible for day to day management and supervision of field offices, and certain units, e.g., CLEAR, Foreclosure Prevention Unit, have supervising attorneys with similar authority to the senior attorneys. These managers are also responsible for identifying training needs, for performance management and professional development, and for case management and supervision. They serve as a conduit between executive management and staff; have authority to make staffing recommendations; organize and implement the work of the office through an annual office or unit work plan and community engagement plan; and identify and support prospective funding opportunities. Senior attorneys may also have a role in resource development, especially with regard to county-specific Older Americans Act Title III-B contracts. One office is currently managing a Supportive Services for Veteran Families (SSVF) grant at the local level. Senior attorneys meet monthly by videoconference or in person.

Advocacy coordinators are considered part of the management structure, but do not have supervisory authority.

A staff committee is currently working with the director of strategic initiatives to build a mentorship program.

Recommendation

IV.2.12.1. NJP is urged to develop a leadership succession plan that addresses both short-term and long-term vacancies in organizational leadership and that defines its efforts to promote leadership development.

Technology

Finding 13: NJP has a strong technology infrastructure, a culture of innovation, and experienced and effective staff support, although there are some areas where modernizations to technology would be appropriate.

NJP utilizes a Windows-based statewide wide area network. Most applications are hosted locally in the Seattle office, and data is replicated at an Eastern Washington co-location facility. Internet connections range from fiber in Seattle to DSL in some outer offices, and most offices report adequate connection to the Internet and NJP network. The program uses Exchange 2013 for email, Legal Server for case management, and is rolling out SharePoint for statewide knowledge management. Its technology plan is comprehensive.

NJP has consistently secured TIG funding and leveraged TIG innovations to improve operational efficiency and access to self-help resources. The program makes good use of Legal Server. It was a catalyst for the electronic transfer feature, which is a critical component to service delivery in the state. A current TIG will support development of business intelligence dashboards that allow program leadership to make better data-informed decisions. The TIG to

upgrade the phone system, which includes a “text-for-outcomes” deliverable, will help move NJP towards a comprehensive outcomes tracking system.

The program makes effective use of interns in the area of technology, particularly those from the University of Washington Information School (iSchool). Recently, iSchool interns helped build the SharePoint-based knowledge system (known as IKE) and a new intern will help NJP create business intelligence dashboards in Legal Server.

NJP’s technology team consists of the director of administration, two capable IT professionals, a website manager, and the Legal Services National Technology Assistance Project (NTAP) attorney. The technology staff receives high marks from colleagues for their knowledge and responsiveness.

NTAP has been housed at NJP for approximately two years, which has helped NTAP to be more connected to internal innovations at an LSC-funded organization. NTAP continues to provide quality support to the national community. The NTAP attorney regularly presents at conferences, and NTAP conducts webinars on technology innovation, including NJP initiatives.

NJP does have some technology challenges. As discussed above, the CLEAR phone system is over 15 years old and in need of replacement. Most critical functions still work; however, NJP no longer has access to any analytics data other than real time status information on the system. Hold music no longer functions, which may create confusion for callers waiting in the queue. Phone systems in outer offices are outdated, although they remain functional. NJP also faces several other small and common challenges. It will be upgrading about half its computers from Windows XP to Windows 7 before Microsoft discontinues support of Windows XP in April 2014. In addition, several workstations are outdated and should be cycled out as soon as possible. Many NJP staff, including CLEAR advocates and screeners, work on small monitors. Programs have found that providing large screen monitors that allow staff to display multiple application windows (*e.g.*, Legal Server and Word or another web browser) can increase efficiency, especially for helpline screeners and advocates. The cost of this enhancement is often quite low. NJP does not make sufficient internal use of document assembly, even for routine documents prepared for CLEAR callers.

Recommendations

IV.3.13.1.* NJP should move forward with implementing the TIG, supplemented by state support, to upgrade to a state-of-the-art phone system.

IV.3.13.2. NJP should proceed with its plan to migrate all its computers to Windows 7 by April 2014, and is urged to consider installing large display monitors or dual screens for some staff, particularly CLEAR screeners and advocates.

IV.3.13.3. NJP is urged to use document assembly, especially for routine documents.

Disaster planning

Finding 14: NJP has incorporated continuity of operations into its technology use policy, but does not have a comprehensive plan for continuing services in the event of an emergency.

NJP has incorporated continuity of operations into its technology use policy, but has not yet adopted a broader preparedness plan that addresses staff safety and communication, and continuation of services to clients, in the event of a disaster or other emergency. Such a plan would include protocols for evacuation, for communications with staff and clients, and for outreach and disaster recovery.

Recommendation

IV.3.14.1.* NJP should develop a comprehensive continuity of operations plan that at a minimum addresses general information regarding functions and services, location of critical documents, computers and technology, specific information for individual offices, business impact analysis, and personnel policies and crisis communications.

Criterion 4. Financial administration.⁷

Finding 15: NJP has sufficient, capable, trained and effective staff dedicated to financial administration, and its systems for financial administration appear to be sufficient.

The NJP finance team is led by the director of finance, who is a CPA with more than 30 years of accounting and management experience, and has been at NJP for nearly 15 years. The team includes the assistant controller, who is also a CPA with more than 30 years of experience; and two experienced accounting clerks, one for payroll and the other for accounts payable. The director of administration is responsible for property acquisition. Accounting procedures comport with the 2010 *LSC Accounting Guide* and other federal and LSC requirements, and incorporate program policies.⁸ Staff report adherence to these guidelines, as well as to clear lines of responsibility, internal controls, and review and approval procedures. Accounting staff prepare monthly reports for review by the executive director and the board audit and budget committee.

NJP typically prepares an annual budget for board review, and a two year budget for OCLA. In preparing the budget, members of the fiscal staff meet with the management team to discuss needs, including staffing and funding. The director of finance monitors grant expenditure activities.

⁷ This visit was conducted by the LSC Office of Program Performance (OPP) 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.

⁸ The director of finance served on the 2010 LSC Accounting Guide revisions committee.

Criterion 5. Human resources administration.

Finding 16: NJP's human resources functions are performed by the executive leadership team with some input from a staff personnel committee and oversight from the board of directors' human resources committee.

NJP does not employ a dedicated human resources professional. Human resources functions are shared by members of the executive leadership team as follows: the director of administration handles recruitment, benefits, maintenance of the personnel manual, and serves as equal employment officer; the director of finance handles benefits administration, wage and hour compliance, payroll, and maintenance of personnel files; the director of advocacy and general counsel is responsible for performance management and personnel issues; and the executive director is responsible for hiring, discipline, approval of extraordinary leave, and implementation of other personnel and benefit policies. Advocate professional development needs are within the purview of the advocacy coordinators. Senior attorneys are responsible for supervision of staff in their offices/units. The board's human resources committee provides input into and oversight of human resources decisions. A staff personnel committee provides input on such issues as compensation, retirement plan, and training policies. NJP also contracts with an outside Employee Assistance Plan for internal conflict resolution and some other services. The program does have a personnel manual, but it is quite lengthy and complex, and would benefit from a simplified numbering system and a searchable format.

Current personnel policies are designed to recruit and retain a high-quality workforce. NJP assesses salaries and benefits annually based on available resources, comparability reviews, and other data. Benefits include a flexible benefit cafeteria plan, a 403(b) retirement plan with employer contributions, a law school repayment assistance program, coverage of bar exam costs and bar leave, and a variety of other leave opportunities. In addition to advocate training discussed elsewhere in this report, administrative and support staff receive training at quarterly staff meetings. The program has a process in place that includes professional development as a component of annual performance reviews. The staff is diverse, capable, and culturally competent, and relationships appear to be professional, collegial, and positive.

While there is a structure for human resources administration, and there are policies in place, the fragmented structure means that not only is management staff taking time from other responsibilities to handle human resources issues, but there are no clear lines of communication on these issues. As a result, and despite overall confidence in program leadership, there is some sense among staff that policies having to do with discipline, grievances, leave and promotions are not always implemented fairly. In interviews, a number of staff cited the need for a director of human resources.

NJP recognizes the need for a full-time director of human resources, and at the time of the visit had included such a position in its 2014 budget.

Recommendation

IV.5.16.1.* As soon as resources permit, NJP should develop, recruit for, and fill the position of human resources director to manage all aspects of human resource administration.

Criterion 6. Internal communication.

Finding 17: NJP leadership is mindful of the importance of effective communication across the program, and employs a variety of means to accomplish this goal.

Inter-office communication in an organization as large and spread out as NJP can be challenging, but at NJP this communication is generally effective and appreciated, and staff members consider themselves to be part of a statewide law firm.

Videoconferencing for meetings has greatly enhanced this effort. Other initiatives include (1) regular weekly email messages from the executive director that include recent developments, policy decisions, and other information of interest to staff; (2) IKE, the staff intranet that provides immediate access to program policies and guidance and litigation related tools; (3) inter-office staff committees and working groups; (4) annual all-staff meeting held independent of the statewide access to justice conference; and (5) regular visits by advocacy coordinators to field offices. The team notes that some staff also expressed an interest in having the executive director and director of advocacy and general counsel visit their offices.

Criterion 7. General resource development and maintenance.

Finding 18: NJP's resource development activities are conducted in collaboration with its partner organizations and within the parameters of the state plan.

As discussed throughout this report, NJP is a partner in the highly integrated Washington state plan, which guides much of the program's activity, including fundraising. As such, NJP also participates in the statewide unified annual fund drive known as the Campaign for Equal Justice (CEJ), which provides operating support for civil legal aid programs in the state. CEJ is coordinated by the Legal Aid for Washington Fund (LAW Fund). The 2013-2014 co-chairs of this fund drive are a retired state Supreme Court justice and the executive vice president, general counsel and secretary of Starbucks. LAW Fund also operates the Endowment for Equal Justice, which raises funds for long-term support of civil legal services through planned giving and other major contributions. NJP does not employ a dedicated resource development professional. Resource development activities are handled by the executive leadership team and as appropriate, by staff who will be conducting the activities for which funding is sought.

As discussed in the summary section, LSC funding (other than TIG) comprised approximately 27% of NJP's total budget of \$20,780,000 in 2013. The program also received \$460,000 in TIG awards in 2013. Other funding included \$300,000 in IOLTA grants, \$11,625,000 in state appropriations (including a foreclosure prevention grant), and \$1,300,000 in foreclosure settlement funds from the Washington Attorney General. Other sources of 2013 funding included the U.S. Department of Justice's Office on Violence Against Women, U.S.

Department of Health and Human Services, Administration on Aging, state housing finance commission, area agencies on aging, and local communities and organizations, e.g., Seattle Children's Hospital.

LSC funding to NJP (excluding TIGs) dropped \$1,231,236 from 2010 to 2013. In 2014, it will increase – to \$6,275,679 – as a result of census adjustments. While overall funding has diversified in recent years, reductions in LSC funding have resulted in the loss of staff dedicated to “core” service areas not required by specific grants. NJP has lost 21 advocates from core functions since 2009.

Recommendation

IV.7.18.1. As resources permit, NJP is encouraged to work with the board and management to develop strategies to diversify its funding that are compatible with the parameters of the state plan.

Criteria 8 and 9. Coherent and comprehensive delivery structure and participation in an integrated legal services delivery system.

Finding 19: NJP is an active and respected leader in the legal community of Washington. It maintains and encourages a coherent delivery structure that is a key component of the statewide civil legal services delivery system.

Established in 1995-1996 at the direction of the Washington Supreme Court, the Washington legal services delivery system is arguably the most integrated in the United States. The Washington State Plan for the Delivery of Legal Services to Low Income People is designed to foster coordination and collaboration among providers of legal services to the low-income community. Under this plan, approximately 40 organizations collaborate as members of the Alliance for Equal Justice. These organizations include NJP, Columbia Legal Services, Northwest Immigrant Rights Project, TeamChild (youth law), Legal Action Center (housing), law school clinics, approximately 20 county bar association volunteer lawyer programs, and other statewide and specialty providers around the state. The state funding entity for civil legal services is the Office of Civil Legal Aid (OCLA), an independent judicial branch agency. IOLTA and some other funding streams are administered by the Legal Foundation of Washington. Coordination and oversight of the activities of Alliance members is provided by the Access to Justice Board of the Washington State Bar Association. Resource development on behalf of Alliance members is discussed above.

As discussed elsewhere in this report, NJP is the largest member of the Alliance, the designated recipient of LSC and state funding and the point of entry for applicants for civil legal services. Interviews with NJP board members and staff, and members of the state justice community, indicate that NJP is a strong and effective component of this system. In addition to its role as an organization, NJP contributes to the Alliance through the activities of individual staff members, who serve on bar association committees and on boards of directors of partner organizations, and as trainers and other sources of support.