



**Legal Services Corporation
Office of Program Performance**

**Program Quality Visit Report
for
Southern Minnesota Regional Legal Services**

Recipient # 524030

September 30 – October 4, 2013

Team Members:

Jacquelynne Bowman, Temporary Employee
Cesar Britos, Temporary Employee
John Johnson, Temporary Employee
Cheryl Nolan, OPP Program Counsel
Jonathan Vickery, Temporary Employee
Evora Thomas, OPP Program Counsel, Team Leader

TABLE OF CONTENTS

INTRODUCTION 1
Background on the Visit..... 1
Program Overview..... 1
SUMMARY OF FINDINGS 2
DISCUSSION OF FINDINGS..... 5
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..... 5
Criterion 1. Periodic comprehensive assessment and ongoing consideration of legal needs..... 5
Criteria 2 and 3. Setting goals and objectives, developing strategies and allocating resources; Implementation..... 6
Criterion 4: Evaluation and Adjustment..... 8
PERFORMANCE AREA TWO. Effectiveness in engaging and serving the low-income population throughout the service area..... 10
Criterion 1. Dignity and Sensitivity..... 10
Criteria 2 and 3. Engagement with the low-income population; Access and utilization by the low-income population..... 12
PERFORMANCE AREA THREE. Effectiveness of legal representation and other firm activities intended to benefit the low-income population in the service area..... 15
Criterion 1. Legal representation..... 15
Criterion 2. Private attorney involvement..... 22
Criteria 3 and 4. Other services and program activities to and on behalf of the eligible client population..... 24
PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration 26
Criterion 1. Board governance..... 26
Criterion 2. Leadership 28
Criterion 3. Overall management and administration..... 30
Criterion 4. Financial administration..... 33
Criterion 5. Human resources administration..... 34
Criterion 6. Internal Communication..... 35
Criterion 7. General resource development and maintenance..... 35
Criterion 8 and 9. Coherent and comprehensive delivery structure; and participation in an integrated delivery system..... 37

INTRODUCTION

Background on the Visit

The Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a program quality visit to *Southern Minnesota Regional Legal Services* between September 30 and October 4, 2013. The team included Program Counsel from the Office of Program Performance Cheryl Nolan and Evora Thomas (team leader); and, Jacquelynne Bowman, Cesar Britos, John E. Johnson and Jonathan Vickery Temporary Employees ("the PQV team").

Program quality visits are designed to evaluate whether LSC programs are providing the highest quality legal services to eligible clients. In conducting this evaluation, OPP relied 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 consistent with the four Performance Areas of the LSC Performance Criteria, which cover needs assessment and priority setting; engagement with the low-income community; legal work management and delivery; and program management including board governance, leadership, administration, resource development, and coordination within the delivery system.

The team reviewed documents and information that LSC receives from the program in the routine course of business, such as grant application information, case service reports (CSRs), and other service reports (OSRs). The team also reviewed documents and information the program submitted in advance of the visit, including advocates' writing samples and an on-line survey of staff. On site, the team visited six of the program's law offices¹ and interviewed staff from all of the offices. The team interviewed advocates, managers, administrative personnel, the executive team, and support staff. In addition to speaking to most of the *SMRLS* staff members, the team met with – or interviewed by phone – a sample of board members, judges, and representatives of local agencies and community organizations.

Program Overview.

Since 1909, *SMRLS* has been the primary provider of civil legal services to the low-income population of its 33 county service area in Minnesota. The service area is predominantly rural, with only two significant urban areas, St. Paul and Rochester; over 40% of the eligible population resides in rural agricultural areas and the remaining 60% in St. Paul. According to estimates in the *American Communities Survey (ACS)*,² there are 162,233 persons living below the poverty level within the service area. The program reports that 38% of the state's poverty population resides within the *SMRLS* service area.³ In recent years the region has experienced a major influx of East African, Eastern European, Southeast Asian and Latino refugees and other immigrants. The highest concentrations of poverty are on the east side of St. Paul and in

¹ Members of the PQV team visited the Fargo, North Dakota Office; the Administrative, Central and RIMS Offices in St. Paul, MN; and, the Mankato, MN and Rochester, MN Offices.

² U.S. Census Bureau, *American Community Survey (ACS) 2011: 3 Year Estimates*.

³ From, *Southern Minnesota Regional Legal Services, 2012 Annual Report*.

southwestern Minnesota. Migrant farmworkers are located primarily in southern Minnesota in the Red River Valley between Minnesota and North Dakota.

SMRLS has been a core participant in the development and ongoing advancement of a cohesive, collaborative and highly coordinated justice community throughout the state of Minnesota. It is a member of the Minnesota Legal Services Coalition (“the Coalition”).⁴ In general, *SMRLS* has maintained a reputation for being a solid legal services provider. The program has continuously promoted the delivery of legal services through a variety of models that incorporate innovation, inclusiveness and standards of excellence. *SMRLS* considers its diverse funding base, racial justice work, and focus on community lawyering as distinctive characteristics.

SMRLS provides a full range of services throughout its service area, and its migrant grants cover farmworkers in Minnesota and North Dakota. *SMRLS* primarily relies on staff attorneys and paralegals for direct services in both urban and rural offices, supplemented by *pro bono* legal services from the private bar, including attorneys from prestigious law firms and corporate law departments.

For 2013, *SMRLS* was awarded LSC grants in the amount of \$1,216,289 for basic field; and \$291,524 for migrant services. In 2012 the program received total LSC funding in the amount of \$1,444,149, a 14.6% reduction from the previous year.⁵ *SMRLS* has engaged in creative fundraising to offset the impact of declining revenues from LSC during the past few years. LSC funding accounted for only 18% of *SMRLS*’ 2012 funding, compared to the national average of 56%.

SMRLS substantially outperformed the national median and national average number of closed cases, closed extended and contested closed cases in 2012. However, in the past year, the number of closed cases for the migrant component dropped 15.5%. The program has surmised that the number of migrant farmworkers in the service area has continued to decline due to lack of work available because of changes in agricultural technology and weather, unemployment compensation issues, and immigration enforcement activities. This has resulted in decreased closed case numbers.

SUMMARY OF FINDINGS

- *SMRLS*’ most recent comprehensive assessment of legal needs for the client community served by its basic field grant was conducted in 2011, followed by a full presentation to the board of directors, which approved recommendations contained in the written report on June 3, 2011. Key respondents included legislators, judges, other public officials, private attorneys, community groups, social services representatives, client representatives, *SMRLS*

⁴ MLSC is comprised of seven regional legal services programs that together provide a full range of civil legal services to low-income and disadvantaged clients in all 87 Minnesota counties. The Coalition programs are: Anishinabe Legal Services, Central Minnesota Legal Services, Judicare of Anoka County, Legal Aid Services of Northeastern Minnesota, Legal Services of Northwest Minnesota, Mid-Minnesota Legal Assistance, and Southern Minnesota Regional Legal Services.

⁵ In 2011, *SMRLS* received \$1,692,225 in total grant awards from LSC; and, \$7,121,442 in non-LSC funding.

staff; and, current and former clients. An abbreviated needs assessment for immigrants was also conducted in 2012.

- *SMRLS* has adopted priorities with appropriate goals, case types, strategies and measurable outcomes. *SMRLS* made an affirmative decision to continue to provide access in all priority areas but to reduce the income eligibility levels to those at or below 125% of the Federal Poverty Guidelines.
- In 2006, the *SMRLS* board of directors culminated a board-driven, strategic planning effort that began in 2001, that resulted in formulation of leadership goals for 2007 which have been addressed by the firm. Recent initiatives have not been derived from a recent and comprehensive assessment of legal needs, client access, resource capacities, organizational sustainability, or state justice community coordination.
- *SMRLS* does not regularly assess outcomes achieved by its advocacy efforts in a concentrated and centralized fashion; and, formal internal evaluations and assessments of performance have not been conducted regularly, utilizing statistical analysis of intake or closed cases data, case outcomes and/or client input.
- In mid-June 2013 *SMRLS* merged its “Metro” hotline telephone intake with its “Outstate” (rural) telephone intake system that served the 28 rural counties, to form one consolidated hotline intake system that incorporates the provision of legal advice. The coordinated intake system has the capacity to conduct intake screening and referral for the entire service area through a single portal. *SMRLS* does not have a broad view or strategy for assessing the quality of client access to services through its intake system.
- *SMRLS* publicizes its services in several ways, including distribution of brochures; posting *SMRLS*’ materials at courthouses, agency and other provider offices; community education; and outreach to the elderly, homeless, victims of domestic abuse, and veterans.
- *SMRLS* offices are strategically located geographically in areas that ensure the greatest opportunity for client access; and demonstrate a commitment to serving diverse communities. *SMRLS*’s language access efforts on behalf of persons with limited English proficiency reflect an awareness of the various ethnic communities and their language needs.
- *SMRLS*’ legal staff is conscientious and committed to providing the highest quality of legal representation. The firm provides adequate resources and standards to support their efforts; however, *SMRLS* does not have a specific litigation coordinator that oversees the legal work of the program. Legal work management and supervision is assigned to senior leadership attorneys that oversee clusters of regional offices, special focus units and projects. *SMRLS* generates a substantial volume of high quality legal work that produces favorable outcomes for clients.

- *SMRLS*' migrant component is appropriately structured to serve the migrant farmworker populations in Minnesota and North Dakota, although the scope of legal work it performs does not address legal issues typically handled on behalf of migrant farmworker clients.
- *SMRLS*' plans for private attorney involvement in the delivery of legal services engages high quality volunteer lawyers from diverse backgrounds with experience and expertise in a variety of substantive legal areas.
- *SMRLS* is active in state and local bar activities, and keeps track of openings on important and influential committees and commissions to ensure that any appointments reflect the racial make-up of the community.
- *SMRLS*' board of directors is highly respected and retains committed, informed and motivated members, although there have been challenges to retention of client eligible members. The leadership of *SMRLS* strives to accomplish the mission of the firm, pursuing standards of excellence, innovation and cohesiveness. However, there is no formal leadership succession plan or deliberate leadership development process.
- *SMRLS* has developed policies to guide personnel management, financial accounting, legal work supervision, and certain aspects of board orientation and development. However, the management structure is ambiguous and confusing. *SMRLS* has made strides in technology advances, but does not systematically assess technology skills or the need for training in professional development plans. *SMRLS* has an experienced financial team that manages the financial resources of the firm effectively. *SMRLS* has methods in place for regular internal communication, yet some staff feels that the systems are not adequate.
- *SMRLS* has successfully engaged in significant resource development activities that generate revenue for the firm to achieve its mission and promote good-will and stature within the legal and corporate communities.

DISCUSSION OF FINDINGS 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: In 2011, SMRLS conducted a comprehensive assessment to determine the most compelling legal needs of the client community.

SMRLS' most recent comprehensive assessment of legal needs for the client community served by its basic field grant was conducted in 2011, followed by a full presentation to the board of directors, which approved recommendations contained in the written report⁶ on June 3, 2011. Data collection was accomplished by a variety of methods, including interviews, surveys, focus groups and meetings; and, data sources including census data, other legal needs studies, intake data, and other data contained in the case management system (CMS). GIS mapping was not attempted. Key respondents included legislators, judges, other public officials, private attorneys, community groups, social services representatives, client representatives, SMRLS staff; and, current and former clients. The pool of respondents reflected diversity of age, ethnic background, race, gender and other key factors of SMRLS' client population. Surveys were mailed to 1,319 former clients and rejected applicants from which 142 survey responses (10.7%) were received and tabulated. Email invitations were sent to 648 people and 144 online surveys (22%) were completed and tabulated. Needs of those with special access challenges were identified in a variety of ways including: regular meetings/input from service providers; input from the bench in terms of systemic issues they see in their court rooms; by staff members serving on various boards of community agencies; input from site visits of other funders; client board member input; input from faith-based institutions; and, issues identified by staff in the course of their day-to-day work.

An abbreviated needs assessment for immigrants was also conducted in 2012. Additionally, a portion of the Minnesota State Bar Association's *Minnesota Client Access Barriers and Strategies (MN-CABS) Study* was conducted in part of the SMRLS service area; and both the raw data surveys and the tabulated results were available to SMRLS during its needs assessment process. Based on the 2011 and 2012 needs assessment processes, the most compelling legal needs were determined to be: family law and domestic violence; public benefits and housing (which includes mortgage foreclosure, fair housing, and subsidized/public housing), and immigration. Notwithstanding the breadth of the 2011 needs assessment process, leadership opined that it would be appropriate to embark on a new study in 2014.

⁶ *Comprehensive Legal Needs Assessment Process Report: Summary of Client Survey Questionnaire, Key Informant Interviews and Focus Groups, and Allocation of Resources Recommendations, May 20, 2011.*

RECOMMENDATIONS:⁷

I.1.1.1. As SMRLS proceeds with developing plans to begin a new comprehensive needs assessment process it should ensure that the assessment includes the needs of the migrant workers and immigrants in their service area as well as input from other stakeholders (local and statewide such as local legal aid providers in the service area, along with the Minnesota Legal Services Coalition and Legal Services Advocacy Project. It should also include empirical data from governmental agencies.

Criteria 2 and 3. Setting goals and objectives, developing strategies and allocating resources; Implementation.

Finding 2: SMRLS has established program priorities with goals and objectives; and appropriately targets resources to meet those objectives.

SMRLS has adopted priorities with appropriate goals, case types, strategies and measurable outcomes. Priorities include: 1) family law, 2) housing, 3)immigration/citizenship and 4) public benefits. Along with establishing case priorities, the firm adopted case acceptance guidelines for staff and volunteer attorneys. This guidance is closely followed. In determining its priorities, SMRLS considered the availability of other providers and the scope of services provided by each.

Advocacy staff utilizes a wide range of advocacy tools to achieve client goals and objectives including direct representation with strategic use of appellate practice, training select government employees and social services staff, and working collaboratively with other legal services providers and the private bar. In response to reductions in revenue, SMRLS made an affirmative decision to continue to provide access in all priority areas but to reduce the income eligibility levels to those at or below 125% of the Federal Poverty Guidelines. Staff was required to be flexible in terms of substantive work assigned in order to meet the objective of continuing to provide access in all priority areas.

Finding 3: SMRLS last adopted a formal strategic plan in 2006, at the culmination of a process initiated in 2001 known as the Futures Strategic Plan.

In 2006, the SMRLS board of directors culminated a board-driven, strategic planning effort that began in 2001, under the executive leadership of former SMRLS' director Bruce Beneke. Known as the "Futures Strategic Plan," this process succeeded an earlier Futures Plan adopted in 1993. The process included close examination of legal work being performed; results

⁷ Recommendations in this report will have a Roman Numeral to identify the Performance Area, followed by three numbers identifying, respectively, the Criterion addressed by the Recommendation, the number of the finding, and a number designating whether it is the first, second, third, etc., Recommendation under that finding. For example, III.2.14.3 designates Performance Area III, Criterion 2, Finding 14, 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, your program will be required to report what it has done in response to Tier One Recommendations instead of submitting a full narrative.

from a 2001 legal needs assessment; input from board members, staff and leadership; reports of peer reviewers; and, uniform data gathering techniques. Among other things, the 2006 Futures Plan resulted in formulation of leadership goals for 2007. These leadership goals have been addressed as follows:

- 1. *SMRLS to become an anti-racist law firm:*** In 2010 *SMRLS* adopted a Racial Justice Policy and established a set of goals to ensure that racial justice is a vital part of *SMRLS'* work including casework and all aspects of client and community engagement.
- 2. *With a law-firm-wide telephone system, work toward firm wide technology and consider firm wide hotline in 2007:*** Under the direction of the Technology Manager, *SMRLS* implemented a "Metro hotline" to provide intake access and advice, along with the "Rural hotline" that had operated for many years in the 28 most rural counties served by the program. They would eventually merge the two. The firm also updated its case management system, PIKA; and populated two HotDocs databases, for rural and Metro. *SMRLS* was also moving towards conversion to Google Apps and Google docs.
- 3. *Fully implement seniors initiative:*** Many projects were introduced to serve seniors, including a five county project, funded by Area Agencies on Aging in the Metro area; the annual *Metro Senior Legal Fair*; linking volunteer attorneys to specific legal work such as debt collection; and, clinics for debt letters and wills preparation.
- 4. *Increase access for under-served populations and/or in under-served case areas:*** The firm expanded its outreach into new immigrant populations and to improve their understanding of cultural variables that impact their relationship with these constituencies. Resettlement of immigrants from Somalia, Ethiopia, Burma Iraq, Eritrea and Laos were identified. Language access and legal assistance with immigration issues were enhanced and handled primarily by the Refugee, Immigrant & Migrant Services Unit (RIMS).
- 5. *Increase leveraging of volunteer resources and increase or maintain funding:*** *SMRLS* successfully engaged law firms, individual private attorneys and local law students in litigation and other legal representation, clinics, community legal education, intake and fundraising. An advisory committee of influential lawyers and judges assists *SMRLS'* efforts to increase its funding base. Branding and sophisticated, high quality marketing became significant factors in the firm's success.
- 6. *As part of #5 and #9, Increase housing coordination, focus, efficiency, communication, and collaboration across the firm:*** Working collaboratively across the firm, *SMRLS* has been very aggressive in handling traditional housing cases and expanded the scope to include foreclosures and related predatory lending practices such as mortgage rescue scams, tenants faced with evictions due to landlord foreclosures, fair housing issues, bed-bug infestation cases and landlord abuses related to immigration status.
- 7. *SMRLS' transition, accountability, and infrastructure improvements:*** A significant thrust of effort centered on recasting the profile of *SMRLS* from a non-profit legal services program to that of a law firm. *SMRLS* relocated to new office space for its administrative offices and its Metro client services office. It relocated in downtown St.

Paul to a thriving area where public transportation is available and the accommodations are pleasant, appropriately furnished, equipped and spacious enough to accommodate staff and clients comfortably in a professional atmosphere. There has also been some reorganization of the staffing structure to improve the coordination of efforts related to specific priority areas; and, to make administrative functions such as financial and information technology management more efficient.

8. ***Successfully complete transition to new Executive Director, Chief Operating Officer, and Bruce's new position:*** The former CEO played an important role as mentor to the current CEO when she served as the Deputy Director of SMRLS. Since his "retirement," he has remained with the program in a non-management role, helping with preservation of state funding and related issues. The CEO and director of operations have emerged from the transition with clear understanding of their respective roles and responsibilities. They appear to share a mutual respect for each other and depend on each other's commitment to ensure that the firm continues to move forward effectively and responsibly. Each of their respective roles was acknowledged by staff.
9. ***Carry out priorities/peer review recommendations regarding targeted community education and outreach and becoming more of a single law firm:*** SMRLS has modified its priorities from time to time, by addressing recently emerging legal issues, conducting outreach to newly emerging client communities and promoting its Racial Justice Initiative in its marketing and analysis of legal issues.

SMRLS board of directors and staff have consistently addressed new challenges through ongoing consideration of changing economic conditions, demographic composition of the client eligible community and emerging legal needs. In doing so, new initiatives have been undertaken and continue to be refined. However, these initiatives have not been derived from a recent and comprehensive assessment of legal needs, client access, resource capacities, organizational sustainability, or state justice community coordination.

RECOMMENDATIONS:

1.2.2.1. SMRLS should compile and review statistical data from the newly merged intake and "hotline" portal within a reasonable time to measure whether resources are being adequately allocated to address the adopted priorities.

1.2.3.1*. In light of recent shifts in revenue, continuing demographic diversity in the low-income community and emergence of new and/or more complex legal needs, SMRLS should conduct a formal strategic planning process to guide all aspects of its work in delivering legal services.

Criterion 4: Evaluation and Adjustment.

Finding 4: SMRLS has engaged in limited activities to examine the quality and effectiveness of its delivery of legal assistance and to identify emerging legal needs.

SMRLS does not regularly assess outcomes achieved by its advocacy efforts in a concentrated and centralized fashion, nor its effectiveness in identifying newly emerging issues. *SMRLS* employs similar means for identifying emerging needs as it does the needs of those with access challenges, noted above in Finding 1. Staff also uses postcards to collect feedback from clients⁸; and, during the summer, local college students contact former clients whose cases were closed within the past year to collect feedback and report findings. None of the people interviewed by the PQV team were aware of the percentage of people that return the cards, or the relative value of these cards in helping the program evaluate outcomes and performance.

SMRLS, through its firm-wide meetings, discusses and identifies emerging trends in the substantive practice areas. Both staff and judiciary have identified an emerging need for additional legal services to address consumer needs. *SMRLS* has seen an increase in Contract for Deed cancellations; increased issues surrounding access to the courts; and increased incidence of third party custody cases related to parental drug addiction. Other emerging needs include increases in requests for bankruptcy representation, and criminal and eviction expungement requests.

Aside from the recent needs assessment undertaken in 2011 and 2012, formal internal evaluations and assessments of performance have not been conducted regularly, utilizing statistical analysis of intake or closed cases data, case outcomes and/or client input. *SMRLS* reviews and prepares outcome data in preparing specific grant reports to funders; and, the firm reports that leaders prepare quarterly reports for the CEO that are shared with the entire firm. Within the substantive practice groups discussions are held around their respective delivery approaches. The two litigation support counsel and litigation coordinator periodically talk about their appellate practice, identifying goals and objectives in benefits, family and housing including identifying trends and cases which could have a bigger impact. There is no evidence that this information is funneled into any global analytical process. As a result, it is not readily apparent that strategies are comprehensively re-evaluated and modified as appropriate, or that new strategies are being developed that are reasonably calculated to achieve the specified goals and objectives of the *SMRLS* approved priorities. In prior years, there was an ongoing assessment that produced periodic changes in case selection. Some examples include: modifying family law case priorities to include third party custody cases due to the increase in grandparents raising grandchildren; and, cutting back on the farm law practice due to lack of demand. This assessment and outcome was produced by staff's input and analysis of demand coming through the intake systems.

RECOMMENDATIONS:

1.4.4.1. SMRLS should consider alternative methods of assessing client satisfaction. The use of college students could provide more substantial feedback on a number of issues: how the client perceived the quality of the service received as well as gauging the impact of the service received post closure of the case. If the program continues to utilize the postcards, it should

⁸ As part of its assessment of housing stability in conjunction with one of its grants, *SMRLS* reports that it sends out approximately 800 postcards to clients annually, to determine if the clients remained in their current housing situation. This helps the public benefits and housing attorneys assess whether their legal work resulted in less homelessness.

consider using surveys to make the information more useful. To gauge client satisfaction, SMRLS could send written follow-up surveys to a random number of clients that could include information about access, conduct of the advocate, quality of the service and whether the client's objective was obtained. It should also include a longer section for comments.

I.4.4.2. SMRLS should engage in more coordinated planning which would include data collection from sources such as from the merged hotline, community partners and input from all staff. SMRLS should evaluate data from its hotline to identify areas of emerging needs such as requests for legal assistance on consumer matters.

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

Criterion 1. Dignity and Sensitivity

Intake –

Finding 5: SMRLS has a coordinated intake system with the capacity to conduct intake screening and referral for the entire service area.

The merger of most intake functions in June 2013 transformed a longstanding rural intake hotline and more recently established “Metro” hotline into a firm-wide, coordinated unit that is simply referred to as “the hotline.” It serves as a single portal for screening and providing legal advice for approximately 85% of SMRLS’ applicants for legal assistance in the housing, government benefits, seniors, and family law. Notwithstanding the focus on the hotline, SMRLS actually operates three distinct intake systems. The primary intake system is the hotline which is available Monday through Friday between 9:00AM and 12:00 Noon and again from 1:00PM to 3:00PM. Both local and toll-free telephone numbers are available for caller access. The second is a walk-in intake system for *Project HOPE* (Homelessness, Outreach, Prevention and Education), SMRLS’ homelessness project operated in the St. Paul Central office. It is also available for other emergency cases outside of hotline hours, or for clients who have substantial difficulty accessing the hotline system. The third intake system is an additional walk-in intake system for domestic abuse victims, known as *Bridges to Safety*, located at the Ramsey County Courthouse in St. Paul.

Intake is conducted via a multi-phased system utilizing intake screeners that determine income eligibility and legal problem. Eligible clients are referred to the hotline attorneys who provide advice and, when appropriate, referrals to the extended service units for further review and legal assistance. If more investigation is needed, the client is referred to the attorney of the day for further investigation before making a recommendation to the unit for acceptance on extended representation. There are four full-time and one .5 FTE intake screeners, and four hotline attorneys that staff the unit. Some intake screeners are multilingual.⁹ The queues allow for callers with limited English proficiency (LEP) to be directed to multi-lingual staff.

⁹ Two intake screeners are bilingual English-Spanish speakers and one is bilingual English-Somali speaker; and the half-time screener is a bilingual English-Somali speaker. Additional screening is performed as needed by a Hmong speaking receptionist/paralegal, and others throughout the program with relevant expertise.

The unit is currently supervised by the Chief Operating Officer (COO), although *SMRLS* expects to appoint a full-time coordinator in the near future. Currently, quality control and oversight is handled by the COO and appears to be limited to monitoring time spent on calls and the volume of wait times in the queues, in addition to sending emails and holding conference calls to discuss updates. The intake unit training has been limited to the initial orientation on the new intake system, review of the intake manual, webinars and email updates of systemic changes, but does not incorporate substantive legal issues. Training has been conducted on an ad hoc or as needed basis. Several members of the unit reported a need for refresher training and more detailed instructions on the new protocols. The lack of adequate training is a cause of confusion and frustration for staff.

At the time of the visit, the intake and hotline unit as a whole (screeners and attorneys) had not been meeting as a unit on a regular basis¹⁰. There have been periodic conference calls with hotline attorneys and the COO regarding updates in protocols and resolution of outstanding issues including intake screener issues. The intake screeners do not participate in these calls, nor do they meet regularly as a group. This is a significant omission, since *SMRLS* loses the opportunity to get feedback from its frontline staff and thus, troubleshoot systemic problems or identify unmet needs and emerging trends. Inclusive meetings and conference calls would also promote symbiosis within the unit. Currently, some of hotline staff indicated that they do not know all the unit members who work in other offices.

It also appears that *SMRLS* does not have a broad view or strategy for assessing the quality of client access to services through its intake system. For example, the program does not routinely analyze comprehensive call data. In response to a request for data from the PQV team, the technology manager generated a Cisco “Agent Task Analysis” report that provided information about call volumes, lengths and treatment of the calls. However the data did not cover those field offices with no call center tie-in are excluded. *SMRLS* does not regularly generate this report. Telephone reports can generate data including: call wait times, average talk times for the unit and by staff, data on abandoned calls, language queue usage, volume of incoming calls and calls screened, as well as data on calls resulting in brief and extended services. Data on applicants rejected can be used to indicate possible emerging needs among the client community or gaps in service. A postcard sent to clients at case closing requests that the client comment on the services they received, if they were treated with respect by staff and how the program helped them. The clients are not guided to comment on specific aspects of the services rendered, such as wait times, convenience of access to servicers, responsiveness of advocates to their questions/concerns, whether their goals were met, etc.

In most instances, the intake screening procedures result in a prompt decision on the appropriate course of action to address the client’s legal problem(s). The caller usually speaks with an intake screener within one minute, unless call volumes place the call in queue. Substantive interviews follow within 15 to 25 minutes of the initial call; and counsel and advice is provided, including limited services and/or referrals, within 30 minutes. During this phase, the client may be notified that the case is being referred to the substantive unit to consider for

¹⁰ *SMRLS* reports that regular meetings of the intake screeners and Hotline attorneys have been established, some of which are joint and others are separated by function. Quarterly training of the Hotline attorneys is planned to begin in April 2014.

extended representation. These case acceptance determinations are usually made during unit weekly review meetings. However, clients that want a divorce are put on a wait list, and advised that it takes up to one month for a call back. Once they are called back, SMRLS conducts an interview to determine whether the case should stay in-house or be assigned to a pro bono attorney. If the latter, placement can take up to an additional four to six months. If the former, then the case is given to the unit for further discussion.

Referral protocols were adopted with Legal Aid of Dakota County (LADC) and with Legal Aid of Olmsted County (LAOC) acknowledging each program's eligibility and case acceptance requirements, priorities and policies.

SMRLS reported that it is beginning to consider the benefits of online intake using the A2J module. A presentation on A2J was recently made at a Leadership Team meeting. At the time of the PQV, SMRLS had not determined the total project cost estimate for this initiative.

RECOMMENDATIONS:

II.1.5.1. SMRLS should hold regular meetings of all intake and hotline staff where staff at all levels have an opportunity to exchange feedback and input on the system, and to participate in the decisions affecting the future planning of the unit.

II.1.5.2. SMRLS should prioritize the appointment of a full-time intake and hotline supervisor to elevate the new coordinated unit to its next level by unifying all staff in the intake/hotline unit through regular staff meetings, conducting regular assessments of the data in all its dimensions to assess quality of access, make necessary changes and forecast trends. Best practices for managing coordinated intake and hotline programs may also be found at www.lsnatp.org, www.lri.lsc.gov and www.legalhotlines.org.*

II.1.5.3. SMRLS should adopt a plan of regular training for screeners and hotline attorneys on substantive law and intake protocols, among other areas unique to telephone delivery.

II.1.5.4. As resources permit, SMRLS should prioritize implementing online intake to increase access.

II.1.5.5. SMRLS should create a comprehensive survey for users of its intake system. It should provide a link to the survey on its website and also as part of its online intake process, when implemented.

II.1.5.6. SMRLS should assess the protocols for case acceptance regarding referral of clients seeking a divorce and explore options to expedite notification of assignment for extended representation.

Criteria 2 and 3. Engagement with the low-income population; Access and utilization by the low-income population.

Outreach -

Finding 6: SMRLS engages in outreach to acquaint the client community and other service providers and support groups with the scope of services provided by the firm.

SMRLS publicizes its services in several ways, including distribution of brochures during outreach events and posting *SMRLS*' materials with the hotline telephone number at courthouses, agency and other provider offices. For several of *SMRLS*' attorneys and paralegals, engagement with the low-income community is tied to community education while outreach is largely connected with the provision of training and support to community partners such as other social services agencies serving the same population. *SMRLS* provides outreach to the elderly at senior centers, along with outreach to the homeless, veterans and domestic abuse victims at corresponding shelters and support groups. These engagements may include community legal education topics.

Staff members regularly provide information about the availability of services from *SMRLS* to organizations and groups that serve their mutual client base. For example, *SMRLS* conducted outreach with the East Metro Taskforce; the Children's Justice Initiative Taskforce that includes county attorneys, parents' attorneys, judges, social workers from the Child Protection Unit of the Dept. of Human Services and Children's Law Center attorneys; the African American Leadership Group; "the Tapestry Project;" the Walsh County Network; the Victims Crisis Center; Minnesota DEED Workforce Center; La Clinica; and numerous others. *SMRLS* has collaborated with a host of partner organizations that refer clients to the firm as a result of their familiarity with *SMRLS*' programs. However, a few staff members expressed concerns about whether the firm was actively engaged in the communities it served, since the outreach being done was largely to other social service providers.

Office Staffing & Location -

Finding 7: SMRLS promotes accessibility and utilization by the client community within its service area, including diverse and special populations.

SMRLS offices are strategically located geographically in areas that ensure the greatest opportunity for client access to legal services and resources. Three offices are located in St. Paul: the Central Office that houses the administrative office and East Metro offices; the Refugee Immigrant & Migrant Services "RIMS" office that serves those populations; and, the "Frogtown" office where the Housing Alliance Law Office (Project HALO) is located. A staff attorney is also embedded at Ain Dah Yung, a Native American cultural center that serves urban Indians. In addition, there are six other offices located in Minnesota, including Albert Lea, Mankato, Rochester, Worthington, Winona and Shakopee; and, one in Fargo, North Dakota to serve migrant and seasonal farmworkers. Offices are in close proximity to public transportation in the Metro area; and to social services and other community services providers that serve the same client populations. Staff is equipped with appropriate office accommodations, equipment and supplies to perform the tasks assigned to them. Offices are well-maintained and welcoming to clients.

Commitment to diversity is a core value at *SMRLS* and the firm embraces diversity as a factor in organizational and programmatic development. The staff is appropriately trained in the cultural competencies compatible with the demographics of the client community in the service

area; and, the overall staffing is diverse racially, ethnically, geographically, and by age and gender to reflect the composition of the client community. While two of the executive leaders of *SMRLS* are African-American women, the ethnic and racial diversity of staff is achieved predominantly among the non-attorney staff. While 31.7% of the poverty population in the service area is non-White, the firm reports that 16.7% of all attorneys are from racial or ethnic minorities.¹¹

SMRLS staff consists of experienced, long tenured leaders, staff attorneys, paralegals, manager and administrative support, along with a reasonable amount of newer staff, all of whom demonstrate a commitment to the mission of *SMRLS*. The firm has successfully recruited new attorneys from a variety of prestigious schools and others who have impressive and extensive experience with low-income populations. Notwithstanding the benefits of attracting diverse staff, the firm recognizes that there are tensions between workers who have been with the program for many years, and those hired more recently, who may have greater acumen with the uses of technology. These differences influence how work is accomplished. In some instances these differences have fostered resistance to change, and in others, frustration about the pace of change.

Limited English Proficiency -

Finding 8: *SMRLS* appears to effectively accommodate clients with limited English proficiency.

SMRLS's language access efforts on behalf of persons with limited English proficiency reflect an awareness of the various ethnic communities and their language needs. Along with a substantial Latino population, there is a significant refugee resettlement community of Somali, Sudanese, and several Asian ethnicities within the *SMRLS* service area.¹² Minnesota is noted as one of the earliest refugee resettlement destinations. English, Spanish, Somali, Hmong, Russian and Lao are the languages primarily spoken by residents of the client communities. To accommodate the challenges of access to legal services presented by persons with limited English language proficiency, in March 2006 *SMRLS* adopted its *Policy on Services to Persons with Limited English Proficiency*, which provides for the accommodation of those requiring language interpretation and/or translation assistance. The policy contains a checklist for staff to use in identifying appropriate resources for interpreter services. *SMRLS* discourages the use of family members as interpreters except for very routine conversations (i.e. scheduling an appointment, obtaining name/address) or in an extreme emergency. *SMRLS* also developed an *LEP Implementation Manual* that details the use of translation services and related policies and protocols. The CEO or her designee reviews compliance and effectiveness of policy bi-annually.

SMRLS employs staff members throughout the firm, who are proficient in the primary languages spoken by clients. Several (approximately 25) staff members are multilingual in Spanish, Hmong, Somali and other languages. Intake and support staff members are familiar with using *LanguageLine* for telephone interpretation. The intake line has selections for Spanish, Hmong and Somali callers. Call data since the hotline merger in June 2013 shows 307

¹¹ *SMRLS* reports that nine of its 54 attorneys are in this category.

¹² In 2010, 4% of Minnesota's total population was limited English proficient.

calls received from Spanish speaking callers: 128 calls from Hmong speaking callers and 29 calls from Somali speaking callers. In waiting areas, brochures are available in other languages besides English and Spanish. There is also a poster for language translation services for applicants in the office lobbies.

Information posted on the *SMRLS*' website, www.SMRLS.org in English, can be read in a variety of other languages, of which the most common are Spanish, Somali, Lao, Vietnamese, Thai, Croatian, Serbian, Slovenian and Russian. More than 50 other languages are also available. Similarly, the statewide website www.LawHelpMN.org, is supported by *SMRLS* and also provides content in a variety of foreign languages.

RECOMMENDATIONS:

II.3.8.1. SMRLS should provide training for all staff on inter-generational dynamics in the workforce; and, develop a mechanism to address related concerns raised by staff.

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

Criterion 1. Legal representation

Finding 9: *SMRLS* provides effective legal assistance to clients through its qualified advocates and support staff and by maintaining systems in place to manage their work.

SMRLS legal staff includes approximately 50 attorneys and 16 paralegals, supported by an administrative staff that includes receptionists, legal secretaries and outreach workers. The firm reports that its attorneys average 17 years of experience, although several have significantly more experience and others are recently hired. The PQV team found most of the writing samples to be well-written, professional and persuasive. This comports with the team's impressions of the staff interviewed, that they are conscientious and committed to providing the highest quality of legal representation. Over the years, several *SMRLS* attorneys have been recognized for their accomplishments in litigation, advocacy and in advancing civil legal services delivery in Minnesota. This year, the Coalition directors bestowed Pillar of Justice honor to Martha Eaves, a supervising attorney of the public benefits unit and founder of Project Hope at *SMRLS*, for her unwavering dedication to justice.

Staff attorneys and paralegals have access to poverty law resources including poverty law journals, manuals and periodicals, along with online research available through the statewide legal services *Westlaw* contract and the www.ProJusticeMN.org website, which is an online law library of practice aids, statutes, caselaw, training materials and other resources on poverty law topics. *SMRLS* is a member of the Coalition, and its advocates participate in substantive listservs, statewide taskforces, and trainings, including the annual statewide training conference. *SMRLS* also collaborates with other organizations and agencies addressing poverty law and related issues facing clients, which affords staff opportunities to participate and learn more about recent developments around these issues.

SMRLS' litigation coordinator oversees the program's appellate practice in conjunction with the two litigation support attorneys, who provide advice to staff attorneys on complex litigation and appeals; provide guidance for new attorneys on case preparation; identify systemic legal issues; provide substantive law training; and sometimes co-counsel cases. The legal work management and supervision is assigned to senior leadership attorneys that oversee clusters of regional offices, special focus units and projects¹³. In St. Paul, the units and projects are each managed by a supervising attorney; and, in the regional offices, the units are supervised by lead attorneys. The former CEO serves as the Senior Counsel and works part-time on education cases. *SMRLS* advocates expressed varying levels of understanding about the hierarchy of legal work oversight and supervision.

The Southwest Region includes the *SMRLS* field offices in Mankato and Worthington; and the Southwest Region offices are located in Albert Lea, Rochester and Winona. The program refers to the 28 counties served by these offices as "Outstate." The Central Office and other offices in St. Paul serve a five county region known collectively as "the Metro." There are several firm-wide special units, including the Education Law Advocacy Project, the Refugee, Immigrant & Migrant Services Unit, the Housing Unit, the Family Unit and the Seniors/Benefits Unit. In the Housing, Family and Seniors/Benefits Units, staff is dispersed throughout the firm. Practice groups meet firm-wide several times per year rotating among the regional offices to develop strategies, provide training and assess recent trends.

SMRLS' board of directors adopted the General Practice Standards, developed to provide guidelines addressing access; client relations; quality, quantity and type of legal work; managing a caseload; support and supervision of legal work; and, community involvement. In addition, the firm has also developed legal practice standards for each of its eight specific practice areas¹⁴. These specialized standards cover: (a) intake and priorities; (b) client contacts; (c) legal analysis; (d) handling and disposition of cases; (e) file maintenance; (f) substantive knowledge; and, (g) workloads. Most staff received orientation based on the practice standards. Some staff felt that the initial orientation and training was useful but there were no follow-up trainings.

SMRLS' standards of practice require that all advocates maintain a tickler system for calendaring of significant dates. The firm has provided calendaring and tickler capability on *PIKA* and program-wide calendaring is available through *SMRLS*' Google Apps system. There is no one specifically assigned to manage the system; and staff compliance with this standard is not uniform, nor is it clear that the information is accessible to third parties.

Legal work supervision encompasses a variety of practices to oversee the development of legal work. These include: weekly case acceptance meetings; open case reviews; use of *PIKA* CMS to track case development; review of closed cases, but primarily for compliance in most instances; mooted appellate arguments; and, coaching and mentoring in advance of the first court appearances of new attorneys. It was observed that frequency and scope of reviews vary

¹³ There are senior leadership attorneys for the Central Office, Housing Unit, Southeast Region, Southwest Region and Refugee, Immigrant & Migrant Unit.

¹⁴ The law practice areas are: discriminatory practices; education; family; farm; housing; immigration; public benefits; and senior law.

from unit to unit and office to office. Some units have different standards of review for newer and more experienced attorneys.

SMRLS has a culture that encourages yearly evaluations and most staff appears to have had evaluations within the year. However, these evaluations do not seem to include a focus on professional development. Several members of the staff viewed their personal workplans, which primarily described caseloads and focus areas, and special projects as professional development. In most situations, professional development seems largely left to the individual advocate with little or no input from the supervisor. In the few instances where the supervisor expressed concern about developing staff, upper management assistance was deemed invaluable. One attorney was offered an opportunity to be mentored by a retiring judge; an opportunity facilitated by the executive director. Routes for advancement within the program were not clear to most staff interviewed.

The firm has devised mechanisms for knowledge management, including a brief bank stored on a shared intranet. Staff commented on the benefits of access to this information to more efficiently develop their legal work. Some document assembly is available in PIKA and *SMRLS* is using HotDocs to produce some family law documents. *SMRLS* also utilizes the fillable forms developed by the Minnesota State Bar Association and Minnesota State Court.

RECOMMENDATIONS:

III.1.9.1. All practice groups should incorporate training protocols that clearly develop advocacy staff at various stages of their professional growth and development.

III.1.9.2. SMRLS should develop an office-wide tickler system, provide training and incorporate a mechanism to check compliance.

III.1.9.3. SMRLS should develop a Case /File Review Protocol that requires periodic, actual review by a supervising attorney of the attorney (case handler)'s open files for more than compliance requirements. The frequency and number of files reviewed should be dependent upon the attorneys' level of experience and should include discussion of the status and strategy of each the case. The files should be reviewed for quality and adequacy of documentation.

Quality and quantity of legal work –

Finding 10: *SMRLS* generates a substantial volume of high quality legal work that produces favorable outcomes for clients.

SMRLS staff produces high quality legal work with its attorneys appearing in all strata of courts and administrative forums. At the time of the PQV, the firm reported that 23 appeals were filed in the Minnesota Court of Appeals since January 2012. Comments from judges, agency representatives and other organizations that *SMRLS* collaborates with support the conclusion that the advocates are well prepared, knowledgeable about the relevant law and facts concerning their cases; and they are appropriately engaged with the client, opposing party and courts. Most of the program staff who submitted writing samples evidenced appropriate expertise in their legal

work, but a few samples were below standard with limited legal analysis, significant typographical errors and other grammatical issues. Legal work is primarily concentrated in the areas of family, housing and public benefits. In 2012, 23.6% of the total cases closed were family law cases; 36.1% were housing cases; and, 16.6% were public benefit cases. Additional legal work is being done regarding education law issues, home foreclosures and, more recently, consumer finance and other debtor issues.

Because of the experience level of *SMRLS*' attorneys, staff has become adept at recognizing patterns where systemic solutions might be warranted. For example, in *Arcand v. Minnesota Department of Veterans Affairs, et al.*, *SMRLS* sought relief for a disabled veteran who was discharged from a veterans' home before being given an opportunity for a hearing, and her contested case hearing before an administrative law judge was not scheduled until nearly 9 months after she was discharged, resulting in her becoming homeless. *SMRLS* sought a temporary injunction, arguing that the client was entitled to heightened "Goldberg"¹⁵ pre-discharge due process protection in the form of a pre-termination hearing. In early January, 2013 a comprehensive settlement was reached that imposed the following: 1) \$75,000 in damages for the client; 2) \$135,000 in attorney's fees for *SMRLS*; 3) \$25,000 in attorney's fees for the law firm that co-counseled the case with *SMRLS*; 4) training of administrators and staff on their duty to make reasonable accommodations for residents with disabilities; 5) requirement for notices to residents of their right to request a reasonable accommodation at any time; 6) requirement for notices to residents being involuntarily discharged, of their right to remain in the home pending appeal until the Commissioner issues a final discharge order; 7) requirement for notices to residents of "Goldberg" due process protections required when an expedited involuntary discharge hearing is conducted; and, 8) required notification to Minnesota Ombudsman for Long Term Care when a resident is voluntarily or involuntarily discharged.

In another case, *SMRLS* identified discriminatory patterns of treatment regarding accommodations for the disabled committed by a public housing authority. *SMRLS* brought suit on behalf of four clients living in subsidized housing where use of the building elevator was restricted for 8 weeks. The tenants were expected to climb several flights of stairs to their apartment units, or remain inside and accept delivery assistance from local Girl Scout volunteers. The housing authority was required to provide temporary, accessible housing to the disabled seniors while the elevator was out of order.

As mentioned above in the Introduction, in 2012 *SMRLS* outpaced both the national median and national average in total case closures. That year, *SMRLS* closed 9,107 cases, including 8,960 basic field cases at the rate of 681 cases per 10,000 poor persons, while the national median is 245 cases and national average is 228 cases. Similarly, *SMRLS* closed 187 extended cases per 10,000 poor persons, compared to the national median of 57 and national average of 52; and, closed 97 contested closed cases per 10,000 poor persons compared to the national median of 28 and national average of 29 cases. This significant performance level may be due in part to the substantial amount of non-LSC funding received by the firm. In 2012, *SMRLS* secured \$6,735, 634 in non-LSC revenue, representing 83.46% of its total funding.

¹⁵ *Goldberg v. Kelly*, 397 U.S. 254 (1970).

Despite this impressive performance, these totals reflect a steady decline in total cases closed annually since 2007 when the firm closed 10,966 cases. This represents a 17% decline in closed cases compared to a 23% reduction in attorney staff during the same period.

Finding 11: *SMRLS* has increased its capacity to provide limited services to clients as a result of the expansion of its intake system and community outreach activities.

Cases are referred from the Intake hotline to the substantive units for further investigation and review for extended representation, as appropriate. If more consideration of the level of extended representation is required, the case is passed on to lead attorneys, based on region and subject matter. In Outstate referrals, the lead attorney takes responsibility for assigning cases. In the Central Office, the supervising attorney on duty takes responsibility for the case until the next unit case review meeting.

Since 2008, when 68.1% of its closed cases were limited services, *SMRLS* has slightly increased the proportion of limited services closed cases each year. In 2012, 72% of the total cases closed were limited service cases. *SMRLS* anticipates that expanded use of hotline attorneys will result in more cases being accepted for limited assistance, while also freeing the substantive units' attorneys to work on more extended cases.

SMRLS also provides limited legal assistance to clients that are connected with community organizations and agencies where *SMRLS* has embedded attorneys on site at their locations. For example, *SMRLS* maintains office hours at the Intercultural Mutual Assistance Association (IMAA) that serves a significant refugee and asylee population in Rochester. A *SMRLS* paralegal is on site at IMAA offices and an immigration attorney from *SMRLS* oversees the services provided. At the Ain Dah Yung Native American service agency in St. Paul, *SMRLS* provides a part-time attorney with expertise in the Indian Child Welfare Act (ICWA) to provide legal support to guide families through the ICWA court process. *SMRLS* also staffs the Bridges to Safety Center housed in the Ramsey County Courthouse, where battered women receive a variety of support services, including legal assistance.

Migrant Farmworker Legal Services

Finding 12: *SMRLS*' migrant component is appropriately structured to serve the migrant farmworker populations in Minnesota and North Dakota, although the scope of legal work it performs does not address legal issues typically handled on behalf of migrant farmworker clients.

SMRLS' migrant farmworker program is a component of the RIMS unit and is staffed appropriately to serve the needs of migrant farmworkers in Minnesota and North Dakota. *SMRLS* established an office in St. Paul and one in Fargo, North Dakota, in 1978. St. Paul is strategically located as the main office for *SMRLS* migrant program because the migrant population has shifted to central, southern and northwestern Minnesota and to eastern North Dakota. Summer field offices are co-located with other agencies that serve migrant farmworkers, including Migrant Health Service and Migrant Head Start in the counties where migrants live and work during the migrant season. *SMRLS* is considering relocation of its Fargo office to Moorhead,

MN where staff would co-locate with Legal Services of Northwest Minnesota Corporation, another LSC grantee¹⁶.

The migrant program staff is under the supervision of the RIMS senior leadership attorney who has lengthy experience in migrant farmworker legal services, and consists of two staff attorneys and one paralegal. The staff attorney located in the North Dakota office left *SMRLS* shortly after the PQV. Two members of the permanent staff are former migrant farm workers. The paralegal in the Fargo, ND office is Latina and a former farmworker who has been employed by the program for 34 years, 17 of them as a paralegal. She is bilingual in Spanish. In 2012 she was honored as one of “The Pioneers of the Farm Worker Movement” by the former U.S. Secretary of Labor, Hilda Solis and inducted into the “Labor Hall of Fame”¹⁷ for her work on behalf of farmworkers. The staff attorney in Fargo at the time of the visit speaks Tagalog and Spanish. She has 10 years of experience with the firm, with the bulk of that time spent on immigration matters.¹⁸ The RIMS attorney in Minnesota with primary responsibility for serving migrants is Latino, bilingual in Spanish and is a former farmworker. He is a 2008 law graduate, and is a member of the Minnesota Migrant Services Consortium, which includes representatives of migrant education, health, and state assistance programs. He is recognized as one of the most active members, and well known for his efforts to reach out to clients. Overall, RIMS staff members who are serving farmworkers are active participants in the community of agencies serving the migrant population in Minnesota and North Dakota.

Staff remains informed about innovative practices and developments in legal services delivery by participating in national and regional farm worker listservs; having access to *SMRLS'* substantive law experts and to the state support center; attending CLEs and webinars; and partnering with Migrant Health Service on domestic abuse issues. Until recently *SMRLS* partnered with Migrant Health Service, under its Department of Justice grant, to address the legal needs of migrant farm worker victims of domestic abuse. This may be jeopardized since the grant was not awarded for 2014.

SMRLS last performed a formal assessment of the legal needs of migrant farmworkers in 2006. The 2011 needs assessment conducted by the firm did not contain a migrant farmworker component, although surveys were sent to migrant farmworkers and agencies serving migrants. However, the results of the legal needs assessment included all respondents in the aggregate. The written reports of summer farmworker outreach advocates reflect an effort to determine the needs of the client population, although the effort has been largely *ad hoc*.

SMRLS devotes significant time and resources to outreach activities. Interviewees reported a perceived decline in the number of migrant farmworkers in Minnesota and North Dakota. Possible reasons include the widespread use of genetically modified seeds that result in

¹⁶ *SMRLS* relocated its Fargo, ND office to Moorhead, MN as of March 3, 2014. The office is co-located with Legal Services of Northwest Minnesota Corporation, an LSC grantee.

¹⁷ Renamed the Hall of Honor, the Hall was established in 1988 to honor those Americans whose distinctive contributions in the field of labor have, among other things, elevated working conditions, wages, and over-all quality of life of America's workers and their families and communities. <http://www.dol.gov/dol/aboutdol/hallofhonor/>

¹⁸ *SMRLS* hired a new migrant staff attorney for the Moorhead, MN office when the position became vacant. She is a 2008 law graduate who started her work with *SMRLS* on February 3, 2014. She is Latina, bilingual in Spanish, and a former farmworker.

fewer workers needed to weed and thin sugar beet fields; severe weather and floods impacting crops; and alternative sources of work in oil and gas fields in North Dakota. However, a significant number of workers appear to continue to work in canneries, packing houses, dairy and vegetable farms, as well as turkey and hog farms. Traditionally the migrant stream in Minnesota and North Dakota was connected to Texas. However, *SMRLS*' collaboration with Texas migrant programs is no longer as extensive as it was in earlier years when staff was mentored on conducting outreach.

Outreach is performed largely by a paralegal, an attorney, and a summer advocate in North Dakota, and an attorney and two summer advocates in Minnesota. Outreach logs and memoranda reflect that outreach is conducted during the day and mostly in the form of disseminating posters, flyers, wage & hour booklets, and pens at public places where migrants might gather. There is a substantial effort to reach families at school parent nights, attending community meetings, and by partnering with the staff of the migrant health mobile unit. There were only a few instances of presentations at migrant camps. There is little evidence of outreach during evenings, when workers are home from work. However, outreach staff has suggested conducting outreach during evening hours. Despite a significant number of H-2A workers coming into the service area, staff does not request copies of clearance orders from the state monitor advocate to chart the location of workers.

Outreach materials are appropriate in content and language. The thrust of the outreach appears centered on informing clients about the availability of staff to assist in immigration matters. The PQV team saw little evidence of outreach efforts addressing field sanitation.¹⁹ While *SMRLS* keeps an electronic log of outreach activities, summer advocates have suggested documenting and organizing its outreach in binders divided into sections for each geographic area. Summer outreach advocates are placed in satellite locations during the summer season (two advocates rotate among eight locations in Minnesota, and two advocates rotate among four locations in North Dakota), without visiting or working with the attorneys at the firm's offices. Since, for the most part they are law students, their periodic presence in the firm's office would help their understanding of the legal work emanating from their outreach efforts, as well as assist in the students' development.

While *SMRLS* has a sustained level of outreach activities, it has not generated a significant number of core farmworker cases in recent years. *SMRLS* does not offer a full range of services to farmworkers as outlined in the LSC (McKay) Letter of June 19, 2000. In 2012 the firm closed a total of 33 cases in Minnesota, including 12 immigration matters and one wage claim. Cases closed in North Dakota in 2012 totaled 114, including 89 immigration matters and six wage claims.²⁰ By the end of June 2013, only three cases were closed in Minnesota, including one landlord-tenant, one food stamps case, one immigration matter and no wage claims. During the same period, 30 cases were closed in North Dakota, including 26 immigration matters, two landlord-tenant cases, one mobile home case and one wage claim.

¹⁹ There was one instance in the past few years (staff couldn't remember the year), when the program teamed up with a private attorney in a lawsuit involving migrant farmworkers who were the victims of pesticides spraying.

²⁰ In North Dakota, the number of closed cases dropped from 139 cases in 2011 to 114 cases in 2012. In Minnesota, the number of closed cases dropped from 35 cases in 2011 to 33 cases in 2012.

A request by the PQV team for documentation reflecting instances where *SMRLS* had initiated employment advocacy produced the following: 1) in 2010, one of the staff attorneys spoke with a grower who ultimately agreed to pay wages he had withheld; 2) a 2010 letter to a grower demanding payment of withheld wages; 3) a 2009 letter to a grower asking to discuss an hourly wage disparity regarding two workers; 4) copy of a 2006 complaint in Minnesota District Court for breach of employment contract; 5) 2005 and 2003 articles from the newspaper *El Amanecer*, reporting on two small claims court actions involving wage & hour issues; 6) 2002 and 1999 articles from *El Amanecer* reporting on two AWP²¹/FLSA²² cases. No evidence was found that AWP or federal FLSA lawsuits have been filed since 2002. Likewise, the PQV team did not find evidence of demand letters invoking these laws. When lawsuits were filed pertaining to unpaid wages, the filings were in small claims court and only sought the unpaid wages despite provisions for additional remedies in the federal statute. The 2006 state court complaint mentioned above asserted state causes of action for breach of contract and promissory estoppel, but despite alleging false recruitment facts, the complaint did not assert AWP, the principal statute designed to prevent the fraudulent recruitment of migrant farmworkers and that also requires less proof than is required for showing the existence and breach of an employment contract. It appears that *SMRLS* has devoted the preponderance of its resources for migrant services to performing legal assistance on immigration issues rather than on core farmworker law cases²³.

RECOMMENDATIONS:

III.1.12.1. The Migrant Unit should reassess the focus of its legal practice and consider whether it is appropriate to reduce the amount of immigration work in order to increase its work on cases involving core farmworker issues.*

Criterion 2. Private attorney involvement

Finding 13: *SMRLS* has adopted and implemented a plan for delivery of legal services through private attorney involvement that engages high quality volunteer lawyers from diverse backgrounds with experience and expertise in a variety of substantive legal areas.

Each year, *SMRLS* adopts an annual PAI Plan for the Volunteer Attorney Program (VAP) that has two primary components: a program for the five county “Metro” area; and, a program for the 28 county “Outstate” area where two full-time coordinators are assigned. The PAI Plan was circulated to the county bar associations and input was also obtained from community based organizations. Senior leadership attorneys are assigned oversight responsibility for each component and the CEO has overall responsibility for the initiative.

²¹ The Migrant and Seasonal Agricultural Worker Protection Act provides employment-related protections to migrant and seasonal agricultural workers and is administered and enforced by the Wage and Hour Division of the U.S. Department of Labor.

²² The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

²³ Since the PQV, a *SMRLS* staff attorney has reconvened the Minnesota Farm Labor Coordinating Committee that has not met since 2006, to address labor enforcement issues concerning migrant farmworkers.

At the time of the visit, the senior leadership attorney in the Metro area was temporarily placing the cases with volunteer attorneys following the retirement of *SMRLS*' Metro VAP coordinator after 48 years with the program, and 36 years in that position. Another attorney assists the CEO with targeted recruitment of law firms, corporate legal departments and judges, etc., for 35- 50% of the time; and, a .8 FTE VAP placement coordinator actually assigns the cases. *SMRLS* recruited for another VAP coordinator to replace the retiree; and contemplates that the new Metro VAP coordinator would be both the ambassador/recruiter and oversee the direct placement of PAI cases²⁴. Except for emergencies, case assignments to volunteers in the Metro area are made at weekly Tuesday evening clinics held in St. Paul. They meet with the clients immediately after the retainer agreement and other required documents are executed. In the Outstate area, *SMRLS* divided VAP responsibilities between two staff members in November 2012. One VAP coordinator is responsible for the family law clinics; the other is responsible for placing individual cases with private attorneys. She calls lawyers on the telephone and only uses e-mail for follow-up. *SMRLS* has oversight protocols in place for its entire program.

Cases from the firm-wide Intake Hotline are referred directly from the Hotline to the coordinators both Outstate and Metro. There appears to be a disparity between the Metro and Outstate VAP practice in the referral of new cases to volunteer attorneys. Outstate, cases selected for VAP are first reviewed by the Lead Attorney of each unit, usually selecting cases that are a second-tier priority; bankruptcies and divorce complaints go directly to VAP without lead attorney review. In the Metro Region, VAP placement appears to be utilized for second tier "contingent critical legal needs" cases as defined in *SMRLS* Priorities and Case Acceptance Guidelines. Additionally, it takes up to six months to place a plaintiff's divorce case with a volunteer lawyer. VAP staff described confusion on the part of Intake staff regarding VAP referral procedures.

The firm reported that in 2012, 533 attorneys agreed to participate and of those, 161 actually accepted case referrals. In addition to direct case referrals for full representation, VAP attorneys have also been used to provide legal assistance at clinics and at special events, as well as training of *SMRLS* staff. The firm has done a significant job in recruiting attorneys from Minnesota corporations such as 3M, UnitedHealth Group and the Mayo Clinic; and large Minnesota law firms, including Dorsey & Whitney and Briggs & Morgan. Volunteer attorneys are given orientation materials on the guidelines for their services; encouraged to participate in CLE's sponsored by the state support; and have access to online legal resources to support their substantive knowledge and skills development. *SMRLS*' staff is also available to mentor less experienced volunteer attorneys. *SMRLS* recognizes the volunteer efforts of outstanding VAP participants each year during the annual *Fall Campaign for Legal Aid Appreciation Luncheon*.

Currently, the VAP uses volunteer attorneys in numerous initiatives, including the "Annual Seniors Legal Fair," which draws approximately 500 seniors to the event; and, the Outstate Legal Fairs in Rochester and Mankato that provide community legal education presentations and individual legal advice. *SMRLS* has engaged volunteer attorneys from two corporate law departments to provide legal assistance in securing Orders for Protection, housing repair cases and Supplemental Security Income (SSI) administrative proceedings. *SMRLS* also sponsors a partnership between the Mayo Clinic and the Briggs & Morgan law firm for

²⁴ A new VAP coordinator was hired shortly after the PQV.

immigration representation in naturalization cases; an Outstate Bankruptcy panel; self-help divorce clinics; a private law firm that provides brief advice on debtors rights; the twice monthly debtors' clinic, where volunteers from the MSBA assist clients draft letters to creditors to desist collection activities; and on alternating Tuesdays, attorneys from the Minnesota Attorney General's Office provide telephone advice to *SMRLS*' clients on housing and consumer matters.

In 2012, *SMRLS* volunteer efforts resulted in 497 closed PAI cases. Of these, 50.5% were extended service cases. PAI cases were closed at the rate of 38 cases per 10,000 poor persons, slightly above the national median of 22 cases and national average of 29 cases. However, *SMRLS* closed 19 extended PAI cases per 10,000 poor persons, substantially above the national median of 8 cases and national average of 9 cases. Similarly, *SMRLS* closed 7 contested PAI cases per 10,000 poor persons, also substantially above the national median of 3 cases and national average of 4 cases.

Notwithstanding the dynamic work currently undertaken by VAP, the recruitment of volunteer attorneys to participate in the delivery of legal services is coordinated regionally, without fully utilizing the resources most heavily concentrated in the Metro region. Metro attorneys are not being tapped strategically to assist clients in the Outstate region. It also appears that Metro attorneys are not currently recruited from the local bar associations. These are significant concerns since the highest concentration of attorneys is situated in the Metro area; and, many Outstate counties have few attorneys that are available to accept referrals from *SMRLS*. This concern was also raised during a recent meeting of the MSBA's Legal Services Advisory Committee and, as a follow-up, is being examined by *SMRLS*' board of directors. At its July 2013 meeting, the board discussed creating a staff/board task force to re-energize the volunteer attorney program.

RECOMMENDATIONS:

III.2.13.1. * *SMRLS should consider the unification of its VAP programs under the management of a firm-wide supervisor to improve the consistency of operations throughout the service area.*

III.2.13.2. *SMRLS should consider new strategies to use Metro volunteer attorneys to deliver legal services to clients from Outstate areas.*

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

Finding 14. *SMRLS sponsors a variety of community legal education events, along with providing pro se and other self-help assistance to clients.*

Throughout its service area, *SMRLS* staff and volunteer attorneys and paralegals provide valuable legal information to the client community through a variety of legal education events addressing issues associated with housing and tenants' rights; immigration, reunification and naturalization; wills, advance healthcare directives and powers of attorney; utilities and other consumer issues; and, debtors' rights. Many events were held in collaboration with other organizations and service providers, including *Keystone Community Services, the Minnesota*

Literacy Council, Ramsey County and other Head Start programs, Wilder Roof program, Women's Advocates, Rent Wise, Forever Young, Rochester Senior Center, Summit Senior Center, Tapestry Project, Oak Ridge Manor, Family Place and the Veterans' Stand Down. These presentations are in addition to those associated with RIMS' migrant outreach.

One of the most impressive and expansive community legal education events held by *SMRLS* is the annual *Senior Legal Fair*, co-sponsored by U-Care.²⁵ Attendance exceeds 400 seniors. The event provided free legal assistance to low-income seniors across the metro area and provided a variety of services throughout the day including a wide variety of vendor booths, community legal education, one-to-one consultation opportunities and special clinics. The 2013 session included workshops on *Wills and Probate, Social Security Retirement, 10 Ways to Increase Your Income, Bankruptcy, and Nursing Homes: Need to Know.* The event also features a naturalization ceremony where clients formerly assisted by *SMRLS* are sworn in as American citizens.

SMRLS staff also provides training for staff and volunteers from other organizations that serve similar client populations. For example, *Red Lake County Social Services, Minnesota Women Lawyers, Winona Senior Men's Health Group, Merrick Community Services* and other participants from county social services departments, school districts, and domestic abuse centers are among those who received training.

Along with community legal education, *SMRLS* has offered assistance to clients through the development of *pro se* forms, in addition to providing legal advice to *pro se* clients on the hotline. While understanding resource limitations, judges have expressed the desire for even greater participation of *SMRLS* in these activities. *SMRLS* contributes to the posting of *pro se* forms on debt collection, foreclosure, *in forma pauperis* and other legal issues that are available to the public on the statewide website, LawHelp.org. *SMRLS* also assists clients through its sponsorship of self-help divorce clinics where volunteer attorneys help clients to prepare pleadings during the clinic sessions, including the Law Day clinics in Mankato and Rochester. The firm also runs clinics at two of the local law schools (William Mitchell College of Law and Hamline University School of Law), mostly advising on repair or substandard housing cases. *SMRLS* also considers its referral of applicants to other service providers a significant contribution to the client community.

SMRLS also contributes to the statewide website; provides trainings in collaboration with the Coalition; and provides assistance to the Legal Services Advocacy Project, a statewide initiative that is supported by the Coalition.

Finding 15. *SMRLS* is active in state and local bar activities, and keeps track of openings on important and influential committees and commissions to ensure that any appointments reflect the racial make-up of the community.

²⁵ UCare is an independent, nonprofit health plan providing health coverage and services to more than 300,000 members in Minnesota and western Wisconsin.

SMRLS staff has demonstrated substantial involvement in state and local bar association activities. The firm keeps track of openings on important and influential committees and commissions to ensure that any appointments reflect the racial make-up of the community. Several have served on committees of the MSBA, including the Legal Assistance to the Disadvantaged Committee and the Operations Committee. *SMRLS* chief executive officer is currently a member of the Council (board of directors)²⁶ of the MSBA, which meets monthly with the President and other officers.

SMRLS' staff attorneys have also assumed leadership roles in local bar associations, such as the Ramsey County Bar where *SMRLS'* director of development is a board member, the executive director is a past board member, and another staff attorney is the current chair of its membership committee. *SMRLS* pays for the annual state bar association, local and specialty bar association dues for each of its attorneys.

PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration

Criterion 1. Board governance.

Finding 16. *SMRLS'* board of directors is highly respected and retains committed, informed and motivated members, although there have been challenges to retention of client eligible members.

The board of directors of *SMRLS* is constituted in accordance with the provisions of 45 CFR 1607, the LSC Regulation pertaining to the governing body of a recipient organization. The board is geographically, ethnically and gender diverse, although the membership does not appear to represent the diversity of the client community, particularly the recent immigrant/refugee population. *SMRLS* is interested in achieving greater diversity geographically since a significant percentage of the members are from the Twin Cities area. The most recently adopted by-laws provide for the board to have up to 30 members. At the time of the PQV, there were 20 members, including 13 McCollum attorneys, five client members and two others. Several members have had lengthy tenures on the board and contemplate stepping down in the near future. *SMRLS* recognizes that it is important to identify individuals that may be suitable replacements on the board, and that planning for leadership succession throughout the firm should be intentional. Attorney members that have been appointed by the local and state bar associations come from large and small private firms, corporate legal departments located within Minnesota, other small businesses and the judiciary. Several have been recognized for their professional achievements and support of pro bono and other initiatives that further equal access to justice. One of the attorneys, a retired judge, is classified as "other" for purposes of the LSC composition requirements.

Several of the client-eligible members bring governance expertise to the board, having had previous tenure on other non-profit boards. One client member was formerly the board chair

²⁶ The Council serves as the board of directors of the Minnesota State Bar Association. In that role, the Council implements the policies of the Assembly and oversees management of the MSBA.

of an LSC recipient in Louisiana before coming to *SMRLS*. Another client member has served as the president of the *SMRLS* board of directors. Some of the board members have developed very ambitious outside activities in support of the client-eligible community. One recently received a gubernatorial appointment to a special committee. The CEO tries to engage in informal activities with client board members. (E.g. visits with clients at home, telephone calls, etc.) in order to preserve their interest and engagement. This has met with success for a few client members. However, a vacancy in a client-eligible seat has persisted despite efforts to identify and recruit a new member. *SMRLS* reports that since March 2013, the firm has continued to search for viable client-eligible candidates. When a new client-eligible candidate has been identified, materials on non-profit board governance are sent to her and once she expresses a firm interest, then a formal orientation will take place. However, their past experience has shown that in going through the process of meeting and discussing the necessary commitment to board engagement, new candidates tend to decline and/or new appointees don't become engaged enough and then fall off.

New members are afforded an orientation that includes review of materials that are amplified by the CEO, COO and Senior Leadership Attorney in the Central Office. These include *SMRLS'* by-laws, mission statement, annual report, meeting schedules, staff roster, case acceptance and LSC Regulations. Some members opined that training, overall, is no longer as robust as it had been in prior years. For example, training for all members on the role of the board member had not been provided in recent years. At the time of the PQV the board and CEO had begun planning a board member retreat. The intent is to focus on engagement and will include a discussion about expectations of board members. It will be a one day event. But, it will not be a one-time event. The event will occur between December 2013 and March 2014.

Finding 17. *SMRLS'* board of directors promotes its commitment to the mission of the program through effective governance and exercises its fiduciary responsibility to the firm, including financial oversight through appropriate activities.

SMRLS' board of directors meets quarterly and has had the quorum required to conduct its official business. Meetings are held at the *SMRLS* offices in St. Paul. Members have the option to participate by teleconference, although the capacity for videoconferencing is not currently available. Proposed agenda with descriptions of proposed action items and related materials are circulated to the members for consideration in advance of each meeting. In the course of meetings, the board reviews executive and management reports, considers the firm's financial position including resource developments, receives and responds to standing and ad hoc committee reports, adopts policies as needed and entertains discussions on new business. At the opening of every board meeting, members read the statement of *SMRLS* Mission. This activity is undertaken at the commencement of meetings at all levels throughout the firm to foster recognition of the important mutual goals and objectives each participant is trying to achieve.

The *SMRLS* by-laws provide for the board of directors to conduct its affairs under the leadership of officers, which include the president, vice-president(s), secretary and treasurer. The by-laws provide for an executive committee, which meets as often as necessary to execute the functions of the board during the interims between quarterly meetings. Other standing committees are permitted. The audit and finance committees were recently merged and the

combined committee now meets quarterly. The audit/finance committee is responsible for the oversight of the financial resources of the firm and is led by the board's treasurer who has experience in the examination of financial accounting reports. The committee receives financial statements from the Controller on a monthly basis for review and discussion. It also reviews SMRLS' annual Form 990 prior to submission to the IRS; and, reviews the auditor's findings prior to presentation to the full board. The audit/finance committee reports to the full board with the assistance of the Controller. Members have varying levels of expertise in reviewing financial reports. None qualify however, as a financial expert, although the committee's charter permits them to hire financial consultants as needed. Each year, a final budget is given to the Board in March for their approval of an "interim budget." The board adopts the final budget at the June meeting after they are assured of their state funding level for the budget period.

The board conducts an annual performance evaluation of the executive director. Under the guidance of a new board member with human resource management experience, the board is developing a new evaluation instrument for implementation during the next evaluation period. The board's activities associated with strategic planning are addressed in Finding 3, above. The board has also adopted a conflict of interest policy and the members regularly update their individual reports as required. SMRLS board of directors does not currently engage in resource development, but supports activities of the Campaign for Legal Aid.

RECOMMENDATIONS

IV.1.16.1. SMRLS board of directors should guide its staff in the development of a leadership succession plan that encompasses all aspects of firm leadership including board, executive, senior and middle managers. Leadership succession planning should include detailed strategies for professional and leadership capacity development for existing and future staff at all levels.*

IV.1.16.2. SMRLS should continue its efforts to recruit and retain client eligible members to fill any current vacancy.*

IV.1.17.1. SMRLS should engage in formal financial management training for all members of the board of directors; and, consider appointing a board member with finance and/or accounting and/or auditing experience sufficient to qualify as a financial expert.

IV.1.17.2. The board of directors should develop an evaluation protocol that allows the board to collect data and information in the performance assessment of the CEO to insure that the board is personally knowledgeable of the duties, skills and recent achievements of the CEO for assessment purposes. Any assessment should include reaching out to community partners, donors, the bar, staff and funders. A final assessment should identify strengths and any areas needing improvement, if appropriate, and establish clear future expectations by the Board for the CEO as to goals and objectives to accomplish.

Criterion 2. Leadership

Finding 18. The leadership of SMRLS strives to accomplish the mission of the firm, pursuing standards of excellence, innovation and cohesiveness.

SMRLS has an experienced, committed, and competent CEO who has, over the years, encouraged and supported the important values and ethics desirable in a large regional non-profit organization and has provided stable guidance for the organization since her appointment. Her entire career in legal services has been spent at *SMRLS*, where she was mentored for her current position by her predecessor. Interviews confirmed that she is respected and appreciated by her staff, board and the legal community. In addition to professionalism, some remarked about the compassion she has shown to individual staff during difficult periods. She is overseeing the evolution of *SMRLS* as a more cohesive organization. Under her leadership, *SMRLS* has embraced the concept of “one firm.” This is evidenced by the consolidation of the intake hotline system and the expansion of intra-office advocacy units. However, individual staff lamented that she is not seen often enough in the field offices.

In promoting *SMRLS* with external partners, she has been highly visible in working with bar leadership at the state and local levels, corporate donors, funders, legal services providers and others to advance the stature and contributions of *SMRLS*. At the same time, it appears that her level of enthusiasm, activity and involvement inside the firm has diminished. This may be a consequence of the ambitious agenda that she has set for the firm. While she continues to communicate with staff through email and periodic newsletters, her limited direct interaction with staff has marginalized their perception of the work she is doing. Further, it appears that she has delegated some responsibility for key projects to other top management officials without sufficient accountability to ensure that she is fully aware of how well implementation is progressing. Nor is she able to measure staff morale during a period of financial uncertainty. The CEO has expressed concern that plans for leadership succession should be formulated.

The COO is responsible for monitoring operations of the firm, as delegated by the CEO. In addition to technology and office space management, involvement in the segregation of duties to support internal financial controls, he is also the management liaison for union relations. The job description for the COO position also includes a role in promoting pro bono efforts, although the PQV team found no indication of this activity. Most recently, the COO was tasked with implementation of the merged Intake hotlines. The COO is responsible for responding to client grievances and reporting outcomes to the board of directors. He has also participated in efforts to increase state funding through the legislature and judicial systems. Some staff members were unclear of the breadth of his responsibility and had limited interaction with him.

There is no formal leadership succession plan or deliberate leadership development process. Some expectations for performance and professional development are reflected in the standards for legal work, but not specifically focused on leadership qualities and skills. Notwithstanding the lack of policy, both the CEO and COO are long-standing employees of the firm who advanced through the ranks to their current positions. The PQV team noted that several of the leadership and management team are considering retirement. Without a strategy to produce appropriate staff to replace them, *SMRLS* may experience a void in leadership.

Finding 19: *SMRLS* has adopted a *Racial Justice Policy* that guides its work.

Apart from its mission statement, in 2010 *SMRLS* adopted a Racial Justice Policy and established a set of goals to ensure that racial justice is a vital part of *SMRLS*' work including

casework and all aspects of client and community engagement. The policy states in part that *SMRLS* is committed to “. . . creating an organization based on racial justice that welcomes all clients, encourages and supports a diverse staff, and advocates effectively to eliminate barriers for person of color, and to ensure their equal access to, and fair treatment by *SMRLS* and the legal system.”

In addition, the policy describes certain strategies that will be employed in conformity with the policy. For example, in furtherance of racial justice, *SMRLS* will partner with community organizations, examine *SMRLS*’ policies, practices and environment, focus program resources and eliminate racism within *SMRLS*. The policy is posted throughout the offices of *SMRLS* and all members of the staff are expected to demonstrate the sentiments expressed in the policy by viewing their work through a “racial justice” lens as they conduct intake, develop legal work strategies, make decisions on operations, design outreach, pursue funding opportunities and provide overall access to services and the justice system. *SMRLS* has not marketed the policy as its vision statement. Accordingly, there is a perception that *SMRLS* does not have a vision statement. And, perhaps, adoption of one, either encompassing other aspects of the work of the firm, or one limited to the scope of the Racial Justice Policy would be a fruitful, energizing opportunity for the firm.

RECOMMENDATIONS:

IV.2.18.1. SMRLS should initiate dialogue and training with staff regarding leadership qualities and how they can be employed in undertaking work assignments and specific advocacy at SMRLS.

Criterion 3. Overall management and administration.

Finding 20: Over the years, in an effort to administer and manage the resources and operations of the firm, *SMRLS* has modified its management structure, but further assessment and restructuring may be warranted.

Overall, *SMRLS* has been able to administer the firm effectively. It has developed policies to guide personnel management, financial accounting, legal work supervision, and certain aspects of board orientation and development. *SMRLS* also adheres to provision entered in a collective bargaining agreement with the union representing the firm’s paralegals. Nonetheless, *SMRLS* does not currently have a comprehensive set of policies to guide internal operations and procedures or administrative practices. *SMRLS* has adopted a disaster plan to ensure continuity of operations in the event of unforeseen emergencies. The program had to execute the policy recently when a fire occurred in one of the field offices.

At the time of the visit, *SMRLS* senior leadership team included the CEO, COO, and Controller. Another tier of leadership is concerned with the legal representation activities of the firm, and is described more fully in Finding 9, above. Additionally, middle managers are responsible for information technology and resource development. The senior leadership team meets regularly with the leaders in this tier. There is very little distinction between their duties and those of lead attorneys, except a higher level of supervision- i.e. regions or firm-wide units.

The lead attorneys are responsible for the support and supervision of the legal work of the substantive units within the offices where they are located. They may also be responsible locally for community education, outreach, bar participation, community involvement; and acting as a resource for pro bono volunteer attorneys. Lead attorneys have a limited active caseload. They are expected to devote time to work as a member of the regional leadership team, including writing grant applications and complying with funding requirements; communicating and enforcing *SMRLS*' policies; resolving client grievances; maintaining an appropriate work environment; and handling day-to-day personnel issues.

Several staff members interviewed by the PQV team were unable to explain the differences between the role of lead attorneys and other attorneys with management responsibilities. More importantly, they were unable to identify who, if anyone was in their line of supervision beyond the immediate supervisor. Nor could they explain the actual responsibilities of some of the individuals in senior management. The management structure is ambiguous and confusing. As an example, in the program's organizational chart there are twelve attorneys in management positions, with one person serving in two roles. The chart indicates there are five senior leadership attorneys, four supervising attorneys²⁷ and four lead attorneys. The PQV team also determined that *SMRLS* fails to evaluate its managers in order to gauge their professional development and assess their respective needs. Some managers lack management and/or supervisory skills training, which diminishes their effectiveness.

As noted above, there has been a heavy reliance on a management structure that has sometimes lacked uniformity and effective communication, resulting in inconsistent supervision and inadequate planning. This has also affected staff understanding of management roles. In the past, a significant amount of autonomy was afforded the field offices. The absence of a program-wide strategic plan has resulted in the regions and units developing individual work plans that lack connectivity or continuity. This has led to creation of silos and affected the staff's sense of unity and cohesiveness. Current initiatives are aimed at addressing disparities in systems and operations, but more effort is warranted to determine how staff perceives the organization. It appears that staff, particularly in the Outstate offices, embrace the notion of "one office," but, continue to face challenges in adhering to the practices that are being presented. This may be attributable to insufficient training, communication or lack of input at the time new initiatives were developed. The PQV team found that staff perceives that management decisions are made without significant or meaningful front-line staff input; and, many staff feels that their opinions are not valued, or that there will be retaliation if they express their true feelings. This may be a subjective opinion, but management should be aware that it exists and become responsive to these concerns.

RECOMMENDATIONS:

IV.3.20.1.* As soon as resources permit, SMRLS should employ a management consultant to evaluate the current structure and recommend alternatives;

IV.3.20.2. SMRLS should develop and initiate a process that allows staff input on major, fundamental program changes and initiatives;

²⁷ No job description for supervising attorney was available.

IV.3.20.3. SMRLS should create professional development plans for all managers and supervisors.

Technology –

Finding 21. SMRLS has made a concerted effort to update its technology to maintain its infrastructure.

Each year, *SMRLS* adopts a new Technology Plan in support of the firm's mission. Its goals include improving communication within the firm and resource sharing with other providers; maintaining and managing client and case information; and, improving constituent access to justice; and, developing a budget that support the goals. In considering evolving technology needs, the firm noted the changing work environment that results from an increasingly mobile work style. The 2014 plan addresses several projects for improvement of current technologies, including enhancements to the PIKA CMS; expanding the use of LawHelp interactive forms, including development of templates and forms through HotDocs Document Service and GoogleApps for Non-profits; implementing additional search features on network drives for knowledge management; increasing use of video trainings for intake; evaluating the Technology, Social Networking and Records Retention Policies, particularly related to disaster recovery; and continuing refinement of DonorPerfect for resource development and MAS90 for financial management and accounting. *SMRLS* has already made some recent strides in technology. *SMRLS* recently upgraded the desktops and laptops for its staff.

The technology is maintained by an IT staff. The information technology manager is self-trained, and she is highly experienced having been with the program for several years. She has never attended a TIG conference or pursued any formal technology certifications. She participates in the LSTech listserv. The firm recently hired a second technology support technician to support the technology administrator. Staff generally reported adequate technology resources and tech training. Help desk support is provided by the technology staff either in person or by remote access. The technology team is responsive to user needs. The staff has received training on basic technology, including program wide training on the CMS and specific questions from staff. Additional training has been conducted on an *ad hoc* basis, or when requested by individual staff. *SMRLS* does not systematically assess technology skills or the need for training in professional development plans.

Although *SMRLS* uses Office View for instant messaging and an intranet and shared drive for documents, it does not have video conferencing. *SMRLS* has not applied for a TIG grant since 2003. The *SMRLS* website is due for an upgrade. The IT manager reported that this is in future plans. *SMRLS* pending plans to incorporate the A2J online intake module will require that the firm plan for and allocate sufficient resources for its implementation.

RECOMMENDATIONS:

IV.3.21.1. SMRLS is encouraged to include technology training in a more formal way and survey the technology training needs and abilities of staff. Further, technology training needs

should be identified based on an assessment of the individual's job requirements and technical expertise.

IV.3.21.2. To the extent resources are available, SMRLS should consider implementing video conferencing for the benefits of unifying staff and conducting meetings and trainings.

IV.3.21.3. The planned website upgrade should be prioritized to occur as soon as practicable.

Criterion 4. Financial administration.

Finding 22: SMRLS has an experienced financial team that manages the financial resources of the firm effectively.²⁸

SMRLS has a Controller with significant financial experience, who is a CPA and obtained an accounting degree from the University of Wisconsin, graduating *Summa cum Laude*. Prior to joining SMRLS, she spent 20 years working for several well-known corporations, including Honeywell, Northwest Airlines and Deluxe, where she assumed several different roles, including audit management, financial planning and analysis, budgeting, general accounting, project management and strategic planning. She has also served as the vice president of finance & administration for a non-profit organization operating internationally. At SMRLS, she is responsible for the overall financial management of the firm, including budgeting and grants management; accounts payable and receivable; audits; and payroll. Upon joining the firm, she was given the LSC regulations, guidelines and program letters for review; and, also learned her job from other personnel; however she has not attended any training specifically on LSC requirements. There are two bookkeepers in the unit to assist her. The Controller has been with the firm since 2012, and has already made significant modifications to the financial management systems, including the restructuring of the Chart of Accounts,²⁹ instituting quarterly grant reporting, updating the accounting manual, and recommending that the fiscal year be changed to the calendar year. The board has moved ahead with the implementation of this recommendation. In the past, the auditors did the monthly financial statements; and, she now does those.

SMRLS has adopted written financial policies and procedures that are based on LSC regulations. The CEO, COO and Board of Directors are integrally involved in both budget planning and oversight. Financial statements are distributed to the Board, CEO and COO on a monthly basis, and reviewed by other management staff. A Summary of Activity, balance sheet, cash and investments and Accounts Receivable are sent to the Board on a monthly basis. The Audit-Finance Committee meets to review the reports before each board meeting, and provides a report to the full board. Budgets are prepared in a timely fashion, but do not include any projections beyond the upcoming fiscal year. The annual financial audits for the past two years did not identify any deficiencies in internal control, nor disclose any instances of non-compliance

²⁸ This visit was conducted by the Office of Program Performance for the purposes set forth in the Introduction. OPP findings and recommendations under this criterion are limited to staffing, organization, and general functions. Assessment of fiscal operations is conducted by other offices at LSC.

²⁹ The current system had 1,182 accounts and she wants to reduce that to approximately 200 accounts.

that are required to be reported under government auditing standards. The program's accounting software - and some internal reporting systems are antiquated and need to be upgraded and/or revised. Staff has lost a lot of time having to enter the same data multiple times because the current software would not populate like fields automatically. This may be a risk factor because errors could easily occur in repeatedly entering the same information.

RECOMMENDATIONS:

IV.4.22.1 SMRLS should provide opportunities for the Controller to attend LSC-specific trainings and to network with other fiscal officers from LSC-funded organizations, who can provide advice and consultation.

IV.4.22.2 SMRLS should consider including two year budget projections beyond the upcoming fiscal year. While speculative, it will give leadership an idea of which grants are expiring, and help plan for resource development.

IV.4.22.3. As soon as resources permit, SMRLS should update the firm's accounting software, and continue efforts to streamline accounts and procedures.

IV.4.22.4. SMRLS should consider increasing the unrestricted operating reserves.

Criterion 5. Human resources administration.

Finding 23: There is no indication that the firm has failed to comply with applicable laws; however, SMRLS has delegated the responsibilities for human resource management among several staff within the firm, which is inefficient for a firm of its size.

SMRLS does not have a dedicated Human Resource Director. HR duties are scattered among several positions, and some functions have been ignored. HR duties are basically divided between the Controller, the CEO, COO and one of the bookkeepers. There is no evidence that anyone has experience in human resource management, apart from the Controller, who previously served as interim HR director of a non-profit organization. A new member of the board of directors with HR experience has provided some technical assistance to SMRLS. However, there is no HR professional concentrating on recruitment, retention, performance evaluations, skills development or conflict resolution.³⁰ The CEO hires and fires; the COO handles all grievances and is the "benefits plan administrator." There is no written plan for recruitment of new employees. The program does not provide a comprehensive and uniform orientation for new employees; nor does the program engage in planned professional development for staff members.

Salaries are reviewed every three years; benefits are assessed each year. Staff received a 4% salary increase in 2013. SMRLS pays its employees through the "day of pay." Consequently, paychecks may have to be adjusted later if the employee is paid for a day that s/he did not work. This can result in extra work and confusion. Performance evaluations are conducted, but appear to be irregular. Some employees have been evaluated annually. One

³⁰ SMRLS reports that it has had substantial pro bono resources available to assist with many HR needs.

employee indicated having been evaluated four or five times in 21 years. Although there have been promotions from within the staff ranks, many are not clear about the process or qualifications. Positions exist for which there are no job descriptions (e.g., supervising attorney and senior attorney). This adds to the confusion regarding the program's structure and advancement opportunities.

RECOMMENDATIONS:

IV.5.23.1. As resources permit, SMRLS should hire a dedicated Human Resources administrator to oversee the recruitment, hiring, evaluation, grievance, disciplinary, benefits and skills development process.*

IV.5.23.2. If legally permissible, SMRLS should consider revising its “day of pay” policy by “holding back” one week’s pay to prevent future re-adjustments and unnecessary work.

Criterion 6. Internal Communication

Finding 24: SMRLS has methods in place for regular internal communication, yet some staff feels that the systems are not adequate.

SMRLS has used technology effectively to communicate with staff, as described above in Finding 21. However, some staff in the field offices reported not always being aware of information affecting the entire firm, even though the CEO sends periodic informational e-mails. The program has an intranet and holds phone conferences. Some staff feels a little isolated. The most remote offices seldom get visitors from the administration, nor does that staff go to the firm’s main office. Others reported not knowing the CEO and that the CEO and COO had not visited the field office in years. Some feel that management is totally disconnected from case handlers. In light of several new initiatives being implemented, staff opined that they have no mechanism for their views and concerns to be heard by upper management when new issues emerge or as feedback to decisions already made. Further, some staff members indicate that they are not sufficiently informed of new or planned initiatives to feel connected to the immediate goals and objectives of the firm. The “disconnect” adversely impacts morale.

RECOMMENDATIONS:

IV.6.24.1. Notwithstanding the extensive responsibilities already undertaken by the CEO, she should incorporate personal visits to the field offices into her workplan, to improve communication within the firm; and, to foster the concept of “one firm.”

IV.6.24.2. When resources permit, SMRLS should consider the use of video-conferencing or other telecommunication tools to facilitate communication among staff.

IV.6.24.3. SMRLS must identify and consider appropriate vehicles to effectively communicate to staff the strategies being implemented to achieve its goals and objectives.

Criterion 7. General resource development and maintenance.

Finding 25: SMRLS has successfully engaged in significant resource development activities that generate revenue for the firm to achieve its mission and promote good-will and stature within the legal and corporate communities.

Resource development activities are assigned to the director of development, working closely with the CEO, who oversees the *Campaign for Legal Aid*. The development director initially was hired as an attorney and moved into the development role after a year. She has attended development training events locally, and planned to attend the 2013 National Legal Aid & Defender Association (NLADA) Annual Conference.

For 2013, *SMRLS* was awarded LSC grants in the amount of \$1,216,289 for basic field; and \$291,524 for migrant services. In 2012 the program received total LSC funding in the amount of \$1,444,149, a 14.6% reduction from the previous year. Also in 2012, *SMRLS* received \$6,754,214 in non-LSC funding. *SMRLS* is engaged in creative fundraising to offset the impact of declining revenues during the past few years.³¹

SMRLS has been successful at developing new sources of revenue and maintaining many existing sources.³² Its resource development efforts are competently staffed and have produced some noteworthy successes. The firm has been awarded a number of grants and sub-grants to support its work. These grants have helped *SMRLS* to diversify its funding sources, created new community partnerships and have expanded *SMRLS*' advocacy capacity to serve clients with legal issues that fall within its priorities. The firm has also built bipartisan support for *SMRLS* in the legislature. The appropriation from the Minnesota legislature, funneled through the Supreme Court's LSAC³³, is the most substantial grant awarded to the firm. An increase was budgeted for the 2014-16 biennium.

SMRLS' private fund raising has been equally successful. Their close relationship with the private bar has generated significant revenues from their fund raising efforts. In addition to the two annual fundraising events, *Lawyers on Ice* and the *Annual Appreciation Luncheon*, the firm has expanded its resource development capacity through the *Campaign for Legal Aid* by adding a new event, "*Social Justice Uncorked*"³⁴ a networking opportunity that attracts members of the business community, particularly corporate in-house counsel, who thereafter consider sponsorship of the firm. In 2012, the event generated over \$100,000 in revenue and was attended by approximately 300 guests. The event garnered more than a dozen corporate and law firm sponsors. Many were featured in *SMRLS*' video, *Justice Matters*. *SMRLS* has secured sponsorships from local businesses such as *UCare*, an HMO that supports the Seniors Project.

³¹ In 2011, *SMRLS* received \$1,692,225 in total grant awards from LSC; and, \$7,121,442 in non-LSC funding.

³² Immediately prior to the PQV, *SMRLS* was notified that the Department of Justice had not renewed its VAWA "legal assistance to victims" grant that had been awarded to the firm for the past 13 years. The board of directors will address the short and long-term impact of this loss in revenue. *SMRLS* reports that it has been the longest running recipient of the grant since the inception of the program.

³³ The Legal Services Advisory Committee (LSAC) makes grants to legal services and alternative dispute resolution programs serving low-income clients. LSAC funds programs serving every county in Minnesota, with grantees annually provide service to over 50,000 low-income clients statewide. LSAC grant funding comes from several sources including funds appropriated by the legislature for civil legal services; a portion of the attorney registration fee dedicated to civil legal services; IOLTA revenue; and a statewide *cy pres* endowment dedicated to civil legal services.

³⁴ The title "Social Justice Uncorked" was trademarked in 2013 through the efforts of a volunteer attorney.

Most recently, *SMRLS* has begun to promote legacy gifting. *SMRLS* has also secured *cy pres* awards, attorney fees and has successfully leveraged non-financial resources such as copier services, through contributions from private law firms and corporate law departments.

SMRLS did not provide a formal resource development plan detailing goals & objectives for the calendar year and identifying measurable deadlines with projected time frames. However, the fundraising activities of the firm are delegated to a committee that meets quarterly and sets annual goals at the beginning of each year. The fundraising committee is comprised of 25 volunteer attorneys and acts as the primary planning and working committee, but includes no board members. It is assisted by the development director and development assistant. The committee is spearheaded by a long time dedicated private attorney whose leadership and sphere of influence has been crucial in maintaining the committee's success. *SMRLS* has not determined its recourse, should he resign from the committee or reduce his involvement. This could significantly impair their ability to continue raising the level of funding. *SMRLS* has secured a grant to hire a planned giving consultant to work with a volunteer committee that will develop and implement *SMRLS'* planned giving program, the "1909 Legacy Society,".

While the members on the board support the *Campaign for Legal Aid*, there is no board resource development committee. The development director is directly involved in public relations messaging; and assists with recruiting volunteer private attorneys for particular programs.

RECOMMENDATIONS:

IV.7.25.1. SMRLS' board of directors should consider establishing a resource development committee.

Criterion 8 and 9. Coherent and comprehensive delivery structure; and participation in an integrated delivery system.

MRLS plays an essential leadership role within the coordinated, statewide legal services delivery system of Minnesota.

SMRLS plays an important role in statewide and regional efforts to provide equal access to a full range of legal services through its collaboration with its six partner legal services providers in the Minnesota Legal Services Coalition. It is highly regarded and has a reputation for producing high quality legal work. *SMRLS* is an active partner in MLSC. There is a substantial interdependence within the Coalition to take advantage of the legal expertise of advocates from each program.

SMRLS participates with other stakeholders in efforts to increase potential sources of funding, volunteers and in-kind resources through legislative advocacy, collaborations with state and local bar associations, law firms, law schools, law libraries and community organizations. The CEO has worked closely with the MSBA to promote legal services delivery capacity and strategies such as pro bono legal services. Other *SMRLS'* staff members serve on influential

committees of the MSBA, such as the Legal Aid to the Disadvantaged Committee (LAD), where they contribute valuable perspectives and information to deliberations on providing access to the courts and provision of civil legal assistance to low-income clients. Staff members of *SMRLS* have shared their expertise in various aspects of poverty law by providing training to the state and local bar associations, volunteer attorneys, special judicial committees, taskforces, agencies and community organizations. The firm is an active participant in the statewide website initiatives, LawHelpMN.org and ProJusticeMN.org. *SMRLS* staff members regularly provide materials and feedback on fact sheets and other content used on these statewide resources.