

Richard Sloane

From: Wayne Moore <wmoore95@yahoo.com>
Sent: Wednesday, July 11, 2012 4:48 PM
To: Richard Sloane
Cc: Wayne Moore
Subject: Comments on LSC's strategic plan
Attachments: law review complete14.doc; Bio.doc; LSC strategic plan comments.docx

Hi Richard. Attached are my comments about the draft LSC strategic plan. I am also attaching a short bio so that you know a bit about my background. My comments often refer to an article I wrote which is also attached and can be posted on your website if you like. I can be reached at 202 997-9375 and wmoore95@yahoo.com. Thanks for the opportunity to comment.

Comments on the draft LSC Strategic Plan for 2012 to 2016

Wayne Moore, former Director of Legal Advocacy for AARP and former Director of Legal Counsel for the Elderly* July, 2012 Available at wmoore95@yahoo.com

Introduction: Why LSC's draft strategic plan is so important

When I was writing my book, *Delivering Legal Services to Low-Income People* (2011)¹, I intended to produce a compilation of what was known about legal aid delivery systems. While writing the chapter on evaluation, I analyzed grantee performance data obtained from LSC through the Freedom of Information Act. I discovered that some grantees appeared to have serious problems with efficiency and effectiveness, while others were very efficient and effective. I also realized that little was known about the quality of services, as grantees don't report case outcomes. I decided to address this discovery by calling for reform. I realized this would be controversial, but the only way to increase and improve the delivery of legal services in an era of declining resources. The uproar this caused from grantees did not surprise me. I had encountered the same response when helping pioneer pro bono services in the late 1970s and legal hotlines in the mid-1980s. Grantees feared that these new systems might be used to replace existing services, because Congress and the President were hostile to legal services.

What did surprise me was the reaction of the state funding agencies and access to justice committees. I had offered all LSC grantees and these state entities to provide copies of the data analysis I done for their programs while writing my book. Nearly half the grantees requested copies but only about a half dozen of the state entities did so. Later, I mailed my program

* These comments do not reflect the views of AARP or Legal Counsel for the Elderly

¹ Available at Amazon.com and <https://www.createpace.com/3466223>

specific analyses to most of the state entities and offered to answer any questions. I received no response. As I learned later, these state entities apparently were satisfied with an NLADA letter that claimed my analysis confused inefficiency and ineffectiveness with the fact that some grantees provided substantial client services other than casework. The excessive time I attributed to inefficient casework was actually being spent on other services such as matters, impact advocacy and community education, as demonstrated by the fact that the “inefficient grantees” received a high percentage of non-LSC funding, which was used for these other services. As my attached article shows, NLADA’s assertions were incorrect. Yet the state entities appeared to be content with the explanation. Since most of these entities were custodians of public funds or public oversight, I expected this information to trigger further inquiry, as a precaution if nothing else. Yet it did not. This could be because they were too busy with other issues such as funding cuts. Maybe they didn’t want to cause further controversy that might attract media attention. Maybe they realized that even if my allegations were true they didn’t have much authority to correct the situation as alternative grantees are non-existent and funding allocations are dictated by law or politics. Whatever the reason, it is clear state entities were unlikely to address the issues.

Therefore, I was delighted by the draft LSC Strategic Plan, which, if properly implemented, will make the needed reforms. The current network of LSC grantees is basically sound, with many programs providing effective, efficient and quality services. However some programs lack some or all of these qualities. The Strategic Plan would directly address these deficiencies by establishing new standards and metrics and procedures for compelling change when necessary. It is also groundbreaking by expanding LSC’s role from a funder to fundraiser and by positioning LSC as a coordinator of services with other entities such as government agencies and the courts.

When implemented, the Strategic Plan has the potential to expand services by as much as 25%, without an increase in funding, as explained in my attached article. It should help its grantees make a greater, positive difference in the lives of clients by improving their effectiveness and by using the reporting of case outcomes to improve quality. My comments on two of the three goals of the Strategic Plan are discussed below (I leave the goal about fiscal responsibility to those more qualified).

Goal One: Maximize availability, quality, and effectiveness of legal services

Initiative One: Identify, promote and spread best practices

This is an admirable initiative. By using the metrics developed under Initiative Two, LSC should be able to identify the top performing grantees and use its evaluation process to identify the practices responsible for their superior performance. These practices can then be shared with others. However there is a potential pitfall to this approach, namely a tendency to confuse innovation with best practices. For example, a common innovation is to use volunteer lawyers or law students in a novel way. The tendency is too assume these systems are more efficient since the advocates are free. However, upon closer examination, some of these systems are actually more expensive than using paid staff or cause an unacceptable degradation in quality. For example, in my book, I demonstrate that using pro bono attorneys for advice is often more expensive than using specialized, paid staff when the costs of recruitment, training, referring cases, and managing quality are considered. Similarly using pro bono attorneys in delivery models where cases are not matched with the attorney's expertise (e.g. Thursday night clinics) can result in poor quality services. Another common "best practice" is to use less expensive staff for common tasks. For example, some programs use paid law students to staff hotlines. However

there is evidence, cited in my book, that this reduces quality. Therefore it is crucial that all “best practices” be vetted for quality, effectiveness, and efficiency.

One “best practice” that deserves immediate attention is the use of unbundled services. This approach is particularly useful for representing clients in uncontested court matters. In my experience most of these uncontested cases require less than four hours of an advocate’s unbundled time (see attached article), whereas some programs average as many as 21 hours on these cases. Again, quality must be ensured by measuring outcomes.

Initiative Two: Implement new performance management system

This initiative consists of three distinct activities. The first is to establish performance standards for quality, effectiveness, and efficiency. The second is to develop metrics and a data collection process for measuring these factors. The third is to create an effective enforcement mechanism for ensuring that the performance standards are met and performance data are satisfactory. I will discuss each of these separately:

1. *Establish meaningful performance standards for quality, effectiveness, and efficiency:*

By establishing new standards, I assume LSC means adding three new criteria to the LSC Performance Criteria for quality, effectiveness and efficiency. In my opinion, this is the quickest route to expanding and improving legal services, because it involves a well-established function of LSC, it can be done relatively quickly, and it automatically becomes incorporated into LSC’s evaluation process.

a) *Quality Standards:* This will be the easiest criteria to establish as most of the work is already done. The ABA Quality Standards for the Provision of Civil Legal Aid and the existing LSC Performance Criteria set out many of the indicia of a quality program, such

as practice systems and procedures, monitoring client satisfaction/complaint information, lawyer development plans, annual evaluations, periodic case reviews, etc. The main activity that is missing is the measurement and reporting of case outcomes, which LSC plans to begin collecting (see below).

There are also a few other criteria that need to be incorporated, namely:

- Every delivery system used by a grantee should have an appropriate quality control mechanism. I have evaluated programs that did not monitor the quality of their pro bono cases or determine the case outcomes resulting from their pro se workshops. In some cases, they eventually were surprised that the resulting services were substandard and made changes; this should not happen.
- Programs should use work plans. Legal services providers deliver a much broader array of services than does a typical law firm, including advice, brief services, pro se workshops, assisted self-help, negotiation, representation at agency hearings, litigation, appeals, outreach, client education, materials for use by clients and advocates, and impact advocacy. Impact advocacy itself can utilize many different methodologies, including community economic development. Thus, providers need more tools to manage these diverse services than those typically used by law firms, because staff must carefully coordinate not only their work but also the timing of their work. The proven method for doing this is a work plan.
- Programs should ensure their client materials (including websites) are written at the proper reading level. This can easily be done using existing websites that measure reading levels. LSC should spot check this as part of its evaluation process.

- Programs should be required to establish an oversight body made up of case service managers and a cross-section of extended services staff to discuss productivity and outcome results at least quarterly and create and manage the following systems: casework protocols (checklists of timelines and the tasks required for common cases, including proven strategies and tips for saving time or conserving costs), practice standards, quantitative benchmarks (goals for the number of case closures for the coming year based on past experience), lawyer development plans, annual evaluations, periodic case reviews and reporting, and client satisfaction assessments.

b) *Effectiveness Standards*: The current LSC Performance Criteria do mention effectiveness, but many more criteria need to be added. The biggest issue concerns the complexity of case services. Programs are required and typically do a good job of identifying priority case types such as domestic abuse. However some programs primarily provide brief services in these cases instead of extended services. This is contrary to the priorities identified by the “right to counsel” movement, which argues that representation in contested court cases and administrative hearings are so important as to warrant a right to counsel. Thus LSC should require programs to set priority case closure codes for each priority case type. Overall, cases closed by negotiation, a contested court decision and administrative agency decision should exceed 20 percent. Several programs have percentages below 6 percent (see attached article).

Another important issue concerns the use of volunteer lawyers. As mentioned above, the use of volunteer lawyers is sometimes more expensive and produces lower quality services than specialized, paid staff. Also many recruited lawyers are never used because

their expertise is not needed. Programs should be required to use volunteers productively and develop methods for identifying clients with problems suitable for the unused volunteer attorneys.

A third issue concerns the fact that, on average, 58 percent of the cases that programs close with advice and brief services actually require more extended services to obtain the best outcomes for clients². Whenever possible, programs should be required to use unbundled services for these cases and monitor them through case completion, as the time required is comparable to that currently spent by many programs on brief services.

A fourth issue is that LSC grantees, on average, obtain more uncontested court decisions than contested ones. Many of these uncontested cases can be more economically handled by court-based self-help centers, while the centers are ill-equipped to handle contested matters because they don't provide legal advice. LSC grantees should coordinate with these centers by referring uncontested matters to them and receiving contested matters in return.

Finally, some programs handle very few litigation cases or court appeals. However, these cases can positively affect many more people than others can, including cases that set precedents, impose injunctions, or prohibit an illegal government or business practices. Ironically, programs that close fewer appeals tend to also close fewer cases per advocate (see attached article). Below average programs should be encouraged to handle more of these cases.

² Programs closed 130,000 advice and brief services cases during the test period. Programs estimated that, in the case of 76,000 of these cases, extended services would have been more likely to enable the client to obtain a satisfactory outcome. Legal Services Corporation, Documenting the Justice Gap in America 6 fn8 (Sept. 2005)..

c) *Efficiency Standards*: This standard will cause the most controversy and push back from grantees. Yet this is the area in need of the most improvement as shown by my analysis in the attached article. One reason for this is that efficiency has never been a high priority in the legal profession, particularly for cases billed by the hour. However this is beginning to change. Even large law firms are being asked by corporate counsel to charge flat fees or set fee caps for certain work. The legal aid literature and conference agendas are nearly devoid of any mention of efficiency or productivity, while prepaid legal services programs are obsessed with this issue as their profits depend on it. Therefore, the process for establishing this standard will be challenging. For example, one of the most common causes of inefficiency is a cumbersome intake system. For example, most prepaid programs use a one step (lawyer) or two step (receptionist and lawyer) intake system where most advice cases are resolved at the second step. Some LSC grantees use a multiple step process involving numerous staff before clients are accepted or rejected for services. Also, many programs use case acceptance meetings where all advocates meet usually weekly to review all new requests for services and decide which ones to accept for representation. No expert in efficiency would condone this practice plus it forces clients to wait a week or more to learn whether the program will serve them. But programs strongly defend this practice as important for staff education and morale; there are cheaper ways of achieving these goals. Similarly, requiring a grantee to centralize telephone intake at one office will increase efficiency and improve the referral process, as demonstrated in my book. However programs will cite special client needs and other factors to justify a more cumbersome system. However these special needs can usually be addressed by supplemental intake

methods targeted solely at these clients, allowing the vast majority of cases to be handled through centralized telephone intake.

Another common inefficiency is the use of cut-and-paste and fillable forms instead of document generators. Grantees are in the forefront of developing generators for use by clients, but not for their own staff. The creation of a complete set of documents for a divorce or landlord tenant case can take 20 minutes with a generator but hours using other methods. Most prepaid programs use generators for nearly all their documents, because other methods have reduced productivity³.

Most programs don't use unbundled services which can dramatically increase efficiency as discussed above.

Finally, most programs don't set quantitative goals for or measure the billable hours of staff advocates, as prepaid programs do. These goals should not be blindly enforced, but monitoring them often helps identify inefficiencies that otherwise might not be spotted. You may want to consult an expert in efficiency within the prepaid network⁴. Also, an expert in using systems to provide efficient prepaid legal services is John Wachsmann⁵.

d) *Questions to accompany standards*: LSC performance criteria are accompanied by questions that can be used by evaluators when evaluating grantees. In my attached article, I have listed potential questions for the criteria on efficiency and effectiveness.

³ To learn more about this issue contact Paul K. Regan, Regan Associates, 45 School Street, Boston MA 02108, Tel: 617/367-1100; his prepaid firm handles a lot of litigation and has a state-of-the-art document generator and case management system.

⁴ William R. Go, Go & Associates,
225 Truxtun Avenue
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⁵ Wachsmann & Associates, P.C.
6053 South Quebec Street, Suite 103
Englewood CO 80111
Tel: 303-796-8787

2. Establish metrics for measuring and analyzing quality, effectiveness and efficiency: LSC should be prepared for considerable opposition to this strategy. For example, grantees have successfully resisted the reporting of outcome measurements for the past 10 years. Programs will never accept the proposition that a set of metrics can accurately measure quality, efficiency and effectiveness, because of the influence of other factors including case type, client type, case complexity, number of appeals closed, amount of services other than casework, percentage of staff other than attorneys and paralegals, etc. LSC must persevere in its effort to create metrics by acknowledging that no set of metrics is perfect and that metrics alone will never be used as conclusive proof that a problem exists, without further investigation. There are numerous reasons why metrics are critical to performance improvement:

- They can help spot problems that would otherwise go undetected
- They can help estimate the effect that a problem has on overall program performance.
When I evaluated programs, I often identified certain inefficiencies and ineffective practices, but could not prove their overall impact on performance in order to convince programs to change.
- They can help determine when inefficiencies and ineffectiveness have been corrected
- They help LSC avoid the awkward position of requiring specific changes that a grantee opposes, as long as the metrics improve sufficiently
- They help identify staff and volunteer training needs
- They help justify budgets to correct identified deficiencies
- They help identify the most effective services for expansion
- They help with the preparation of program improvement plans

- When compared with past results, they can identify an increase or decrease in performance
- Outcome metrics determine whether grantees really make a difference in the lives of clients

The metrics selected should meet certain criteria, namely:

- Allow the comparison of programs, because it is difficult to assess quality, efficiency and effectiveness in a vacuum. Unless one knows what is achievable, it is hard to convince staff that improvements are needed;
- Measure time rather than cost. It is difficult to compare costs, as they vary with the local cost of living, they are difficult to standardize (the costs reported by one program might not include all the expenses counted by another), and lower costs do not always equate with better efficiency (a program that receives free space has a lower cost per case, but is not necessarily more productive).
- Use current data to the extent possible to minimize the burden of gathering new information.

An expert on using case type and billable hours to monitor the efficiency of a national prepaid program with many staffed offices and contract attorneys is Dolores Galea⁶.

a) *Quality metrics*: Outcome codes have been developed for most common case outcomes, but unfortunately they have not been standardized for all programs. Most of

⁶ UAW-GM Legal Services Plan
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these codes don't capture unsuccessful outcomes. Also, they gather little information that can guide improvement. For example, in cases of negotiating more time for tenants to vacate their premises, it would be helpful to know how much time they received, so that others could learn from those who obtained the best results. The codes sometimes don't capture the amount of economic benefits clients obtain, which can demonstrate the program's effect on the economy of the low-income community.

Currently, programs that collect case outcomes don't do so for most advice and limited action cases. Programs really do themselves a disservice by not collecting this information, as many of these cases have significant outcomes.

Determining outcomes for a statistically valid sample of advice and limited action cases will allow outcomes to be compared among similar programs, without causing the burden required to collect outcomes for all of these cases. Law students could inexpensively make call-backs to clients to collect this information.

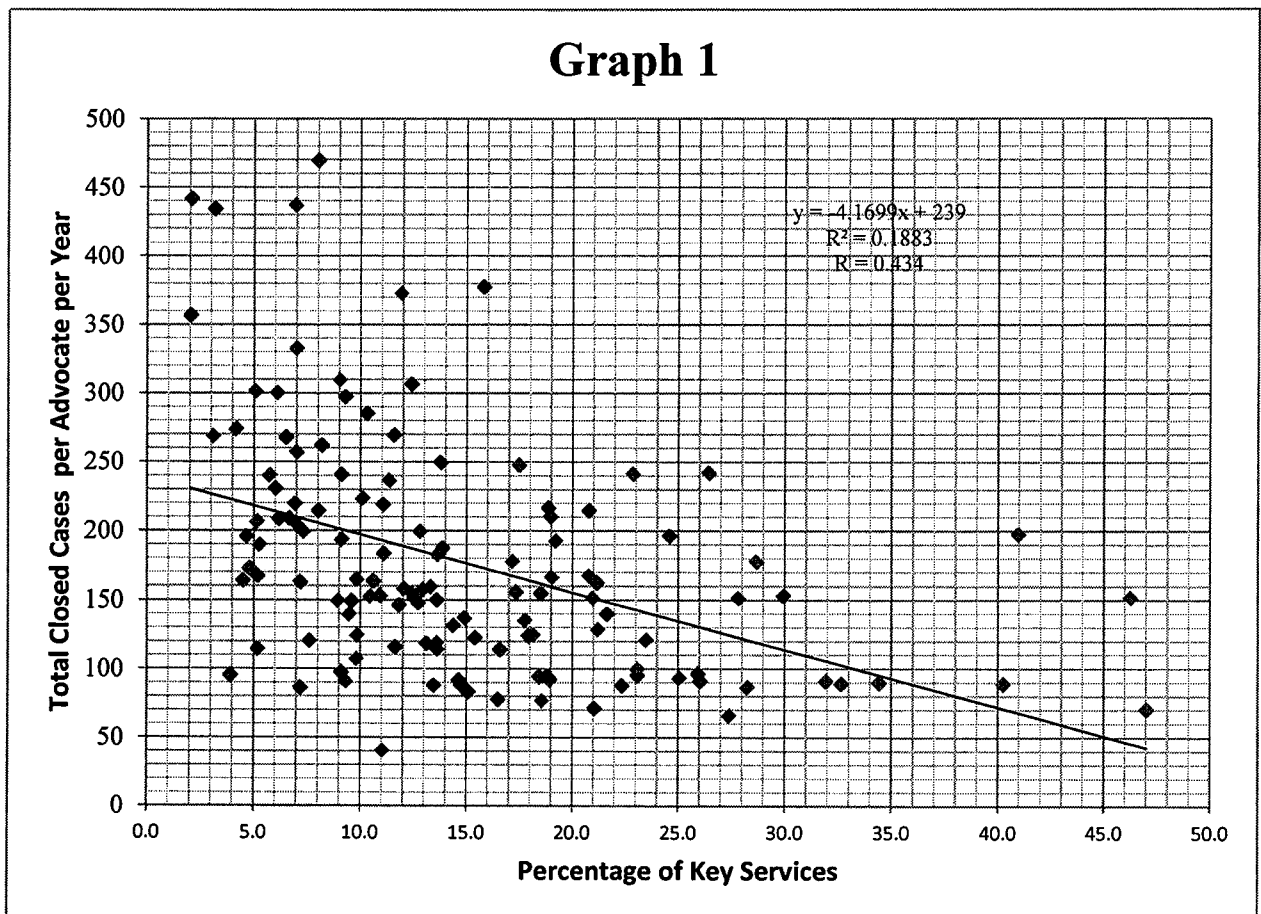
b) *Efficiency metrics*: There are several metrics that use currently collected data that can help evaluate efficiency, namely:

- *Total closed cases per advocate per year and the percentage of key services cases*. The first statistic is calculated by dividing the total number of CSR cases closed during a year by the full-time equivalent number of staff and contract attorneys and paralegals devoted solely to CSR cases. (The number of volunteers devoted to closing these cases is not counted as their time is free). Total CSR cases are currently collected, but programs will have to start collecting the latter statistic, although a good estimate is sufficient as the current range in data among grantees is so large. The second statistic is calculated by determining the

percentage of all cases closed during the year with negotiation, a contested court decision and an administrative agency decision (Closure codes F, G, H and Ib).

Key services cases are the types of cases that advocates believe are so important as to warrant a right to free counsel. These cases don't include those closed by advice, limited action, uncontested court decisions, extensive services or other.

These two statistics allow the creation of the following graph (which is based on 2009 data from LSC):



(Two outlier LSC grantees are omitted from the graph: (0.6, 768) and (7.1, 1257)).

This graph allows one to compare closed cases per advocate among programs which handle cases of similar complexity. Note that programs with similar key services

percentages can vary by 100, 200 or even more closed cases per advocate. The above graph counts all attorneys and paralegals and not those devoted solely to handling CSR cases, but the range in data suggests that this over count is not the sole cause and that inefficiency may be to blame. (See my attached article which makes a more convincing analysis).

- *Ratio of managers to non-managing advocate staff (attorneys and paralegals.*

Calculating this ratio can help detect inefficiency. Consultants that advise city and county government law offices recommend that the ratio of management attorneys to non-management attorneys be no more than 0.10 to 0.15⁷. In contrast, the average ratio of management attorneys to non-management attorneys and paralegals for all LSC grantees in 2010 was 0.25⁸.

- *Annual billable hours per advocate.* This is determined by calculating the total number of hours spent on client services divided by the total number of FTE attorneys and paralegals devoted to direct client services. This is the same as the “billable hour” metric commonly used by attorneys in private practice. This does not include time used for leave, administration, case review meetings and trainings, and similar activities. LSC regulations currently require grantees to record this time for each case and be able to aggregate it using their case management systems⁹. However LSC does not require grantee staff to keep track

⁷ See James Wilber, Altman Weil, *Best Practices of City and County Civil Law Offices* at http://www.altmanweil.com/dir_docs/resource/b0541231-be60-491b-96ab-c6f1d5e1b4c5_document.pdf.

⁸ 1128 managing and supervising attorneys and 4553 staff attorneys and paralegals. LSC Fact Book 2010 at 35, supra note 8. See also Author’s Book at 193.

⁹ 45 CFR 1635.3 Timekeeping requirements.

of time spent on client services other than CSR casework, which would have to be captured. If this statistic varied considerably among grantees, it would indicate that those with fewer billable hours per advocate may be more inefficient.

- *Average hours per case for each closure code.* This is calculated by dividing the total number of hours billed per year to all CSR cases closed with a specific closure code by the number of these cases. Programs can currently calculate these numbers. This metric should be collected for each separate grantee office and unit (e.g. hotline). Comparing this metric among grantees and among units within the same grantee could help spot inefficiencies.

c) *Effectiveness metrics.* While the draft strategic plan does not mention these metrics, they are none-the-less important. Their omission is somewhat surprising since effectiveness is a major focus of the strategic plan. I recommend the following metrics:

- *Percentage of key services:* The percentage of cases closed with key services is a measure of a grantee's effectiveness according to "right to counsel" advocates. A similar metric is the total number of CSR cases closed annually with key services divided to the number of FTE attorneys and paralegals devoted to closing reported CSR cases.
- *Impact scores:* The above metrics allow the evaluation of a program's casework, but not its other services, including community education, materials and website development, matters, coalition building, community economic development, and other community advocacy.

However a metric developed by LSC for its Delivery System Study (DSS)

can help evaluate these other services⁸⁸. The DSS used on-site attorney teams to measure the impact of such services, defining impact as the achievement of relatively permanent improvements or avoidance of relatively permanent deteriorations in the legal rights or basic living conditions of significant segments of the eligible population. Experienced, trained attorneys collected information about each activity using semi-structured interviews with appropriate advocates. A panel of experts reviewed this information and assigned a score to each completed activity. Each judge rated six sets of 25 randomly selected impact reports for a total of 395. Three or four judges reviewed each set, and all 11 judges reviewed 27 of the reports to test the reliability of the scores and provide a means of adjusting scores for differences in judges' rating behavior. Scores for each of the program's advocacy activities were added and divided by the total cost of the program.

I propose using the same method, except that programs prepare and submit their own advocacy descriptions on a standardized form to save costs.

Also, new projects should not be evaluated until they are completed or reach maturity (if they are intended to be ongoing) so the evaluations are based on results and not potential. Existing LSC evaluation staff could do the scoring. The evaluation should expand to include what LSC refers to as "matters", or matters could be scored separately. The scores are not intended to be precise, but sufficient to group programs into tiers where

⁸⁸ Legal Services Corporation, *The Delivery Systems Study: A Policy Report to the Congress and the President of the United States* (June 1980).

successful programs can be identified for learning purposes and programs with poor scores can be targeted for technical assistance and training.

Evaluators should send each program the comments that form the basis of the scores with suggestions on how to improve their activities. The evaluators may want to score websites separately, as this might provide additional useful information.

- *Percentage of cases closed by volunteers by closure code.* As mentioned above, it may cost more to use volunteers for advice and limited action cases than paid staff, unless the lawyers are deployed in a high volume delivery system such as a self-help center or workshop. Therefore the percentage of cases closed by volunteers with extended services is a measure of effectiveness and is currently collected by grantees.
- *Number and percentage of active attorneys that do not accept cases in a given year.* Programs do not use all of their active attorneys each year, primarily because their expertise does not match the programs' case priorities. However, since grantees only handle 20 percent of the need, a failure to use a high percentage of their active attorneys is a sign of ineffectiveness.
- *Percentage of cases closed with advice or limited action that requires more extended services to obtain the best outcomes for clients.* Programs collected this information for the preparation of the Determining the Justice Gap report. They should continue to do this on an occasional basis as a high percentage of these cases reflects on a grantee's effectiveness.

- *Number of contested court cases and appeals per advocate.* As mentioned above, these cases are the most likely to positively impact the client community. The number of these cases per advocates devoted to casework is an indicator of effectiveness.
- *Percentage of court decisions that are uncontested.* A high percentage of uncontested cases receiving full services is a reflection on a grantee's effectiveness.
- *Client satisfaction surveys:* Programs should conduct standardized client surveys using statistically valid methods so that results can be compared among programs. It is difficult to truly assess client satisfaction in a vacuum. Comparable data helps programs determine if improvement is needed. Programs could supplement these surveys with their own questions. These standardized questions could include: What difference has legal aid made in your life? (In one survey 55 percent said it made "a lot" and 13 percent said it made "much" difference¹⁰); Have your legal problems affected your health? (Results have ranged between 17 and 51 percent¹¹); How long did your problems persist before legal services addressed them? (Many problems persist for years); Did the legal services you received prevent other problems from occurring? (Some problems, like domestic violence, trigger a host of others); Did your situation change due to: a) the legal services received b) your own efforts or c) the matter

¹⁰ Wayne Moore, Making Self-Evaluation Part of Program Management, AARP 2 (2002).

¹¹ Jennifer Goldberg & Shawnielle Predeoux, Maryland Legal Aid Outcomes Survey, Maryland Legal Aid Bureau 4 (July 6, 2009); Pascoe Pleasence, Nigel Balmer, Alexy Buck, Aoife O'Grady, & Hazel Genn, *Civil Law Problems and Morbidity*, J.Epidemiol Community Health, Vol 58 552 (2004).

resolving itself? (This is to ensure a causal link between services and results); and Did your problem get better, stay the same, or get worse?

Programs with deficient survey results can use the survey information to identify areas in need of improvement.

d) *Needs assessment metrics*: The current process consists of determining the priority case types based on client needs. But this is overly simplistic. For example, would providing advice only for priority legal problems really meet the needs of clients? The process should be expanded to determine the complexity of services that will be delivered for each priority problem. For example, should more contested court cases be handled? Other factors should be considered such as whether the priority problems should be those that affect clients' health, are likely to lead to more problems if left unresolved (e.g. domestic violence), or are likely to persist for years if unresolved. Maybe priority should be given to legal problems can lead to a downward spiral in clients' lives.

3. *Establish performance triggers*: The proposed carrots and sticks are good ones. LSC also has the ability to withhold 5 percent of funding, impose corrective grant conditions and award provisional grants; these no doubt are included in the category of "other actions permitted by law and regulations". Another action that should be considered in worst case scenarios is to allow the division of a service area between two grantees: one to handle advice and brief services and one to handle the remaining cases. This bifurcation has worked well in New Hampshire, Vermont and Connecticut. All telephone intake would be received by the advice grantee, which would refer cases requiring extended services to the other grantee. The second grantee would be allowed to conduct

narrowly focused intake to obtain more priority cases if necessary. This would allow grantees in states with multiple grantees to expand into another grantees service area without having to provide extended services in the area. Also prepaid programs may be willing to apply for these advice and limited action grants as they currently provide these services in most case types handled by legal aid programs and could hire new staff to cover the remaining areas.

Initiative Three: Provide support to improve quality of services

I fully support all the activities discussed in this section. I think particular attention should be given to the following:

- Training on unbundled legal services
- Training on the best practices for operating certain delivery systems such as hotlines, pro bono programs and pro se workshops
- Training about efficiency, which is different than training about efficient delivery systems; efficient systems can be operated inefficiently. This training has never really been provided to programs.
- Grants to develop or license existing document generators. There are many commercial document generation programs that could currently meet most of the needs of LSC grantees (see www.directlaw.com). Also LSC could license document generators from prepaid providers in most states.
- Grants to develop intake protocols to match clients with the needed services.

Although such protocols would vary somewhat from state to state, the greatest need is for a base set of protocols for each case type that could be modified by each state.

Their purpose is to determine clients' abilities to resolve their own problems and the

amount of legal assistance this would require, .e.g., advice, brief services, unbundled services, or full representation. This is key to maximizing services.

- Agreements with networks of interpreters and translators to give grantees discounts
- Grants to test ways to better utilize volunteer lawyers

Many issues about the delivery of legal services to low-income people require more research. LSC should partner with law schools and universities to conduct such research as:

- determining the types of legal problems that, when left unresolved, tend to trigger other legal problems (this will help set priorities);
- determining best outreach practices for serving hard-to-reach groups of low-income people;
- determining the best outreach methods for finding clients with certain high-priority legal problems, such as those who are victims of abuse, at risk of homelessness, or have been denied public benefits;
- developing efficient, high-quality methods for handling common legal problems using unbundling and assisted self-help;
- determining the best methods for providing legal information to clients with low literacy skills; and
- Determining the characteristics of low-income clients who are most likely to take no action when experiencing a legal problem (e.g., race, age, being consumed by care

giving responsibilities). This is needed to determine who should be targeted for community education and outreach.

Goal two: Become a leading voice for access to Justice and quality legal assistance

My comments are directed at LSC's proposed coordination function.

Currently court-based self-help centers help hundreds of thousands of people successfully obtain uncontested court decisions, but they don't usually provide legal advice or effectively help people with contested matters. LSC grantees needlessly spend substantial resources representing clients in uncontested matters but can provide advice and effectively represent clients in contested court cases. Close coordination of the two networks could generate exceptional synergy.

Another great opportunity concerns coordination between LSC grantees and other providers of legal services. Australia has established an annual conference attended by all providers, which, according to the attendees has greatly increased coordination among providers. This also can save costs as providers typically provide inaccurate referrals to each other which waste resources devoted to screening and referring clients elsewhere.

Another opportunity for coordination may be difficult to achieve in practice. This concerns cases involving government agencies. While evaluating programs, I have found advocates (primarily paralegals) who have great working relationships with their counterparts in government agencies. They are able to resolve many more cases at the administrative level instead of appealing them to a fair hearing. This results in prompter decisions and less expense on both sides of the case. It would be extraordinarily beneficial to all concerned if a level of trust could be established

between LSC grantees and agency staff that allowed more cases to be resolved before the fair hearing.

Biography of Wayne Moore

Wayne Moore has thirty five years of experience in designing, managing and writing about the delivery of legal services. He was Director of AARP Legal Counsel for the Elderly (LCE) for twenty five years and simultaneously served in various management positions with AARP including Director of Legal Advocacy, Co-administrator of the AARP Foundation, and Director of Advocacy Planning and Issues Management. He helped pioneer several delivery systems including pro bono programs, legal hotlines, brief services units and court-based self-help centers. He implemented and managed a pro bono unit, legal hotline, brief services unit and neighborhood self-help center at LCE and created and managed a network of statewide legal hotlines for older Americans, 14 attorney impact litigation group, national legal hotline resource center, home study paralegal certificate program with the USDA Graduate School, national legal training program, national support center for law and aging, and a discount legal services programs for AARP and its members.

He has written extensively on the subject and has presented at numerous international, national and regional conferences. He helped establish the first ABA Pro Bono Conference, the ABA/NLADA Equal Justice Conference and the National Law and Aging Conference. He has served as a member of the ABA Standing Committees on Lawyer Referral and Information Services, the Delivery of Legal Services, and Group and Prepaid Legal Services (serving as President in 2001-2002), and represented AARP on the ABA Coalition for Justice. He has received several awards including the first Award for Innovations in Equal Justice from National Legal Aid and Defender Association, the Louis M. Brown Award for Legal Access from the American Bar Association, and two Sustained Excellence Awards for Creativity from AARP.

After retiring from AARP, he established an unbundled law practice for three years to provide

flat fee service to low and moderate income residents of DC, MD and VA.

Legal Services Programs Can Avoid Service Reductions by Improving Efficiency and Effectiveness

By Wayne Moore (July 2012)

Funding for civil legal aid programs is declining at a time when the need for services is greater than ever. Aid was about \$1.6 billion at the beginning of 2010¹. LSC funding was then reduced by 17 percent from \$420 million in FY2010 to \$348 million for FY2012². Interest on Lawyer Trust Account (IOLTA) funds, derived from pooling interest from lawyers' trust accounts, are also decreasing. In 2007, IOLTA income reached an all-time high of \$371.2 million nationally; now it is half that.³ Since this funding is based on the interest rates paid by banks, the situation won't improve any time soon. The Federal Reserve recently announced that it would hold interest rates low through late 2014⁴. States and cities cut spending at the end of 2011 by more than any time in a decade⁵ and it cannot be expected to grow significantly in the near future.

In response, legal services programs have been laying off staff. In an LSC survey of its grantees in January 2012, programs reported that they anticipate laying off 393 employees in 2012⁶. In

¹ Legal Services Corporation (LSC) \$420,000,000; other public (federal and local) \$283,853,000; state general revenues and filing fees \$420,249,500; IOLTA \$183,708,000; foundations/corporations \$112,272,000; legal community/bar \$76,245,000; Cy Pres \$20,310,000; Other \$90,958,000. Alan Houseman, *Civil Legal Aid In The United States, An Update For 2011*, Center For Law And Social Policy, April 2011 at http://www.ilagnet.org/jscripts/tiny_mce/plugins/filemanager/files/Helsinki_2011/national_reports/USA_National_Report_ILAG_2011.pdf.

² Steve Barr, *Staff Reductions Hit Legal Aid Programs*, LSC, January 26, 2012 at <http://www.lsc.gov/media/press-releases/staff-reductions-hit-legal-aid-programs>.

³ Neeta Pal, *Cuts Threaten Civil Legal Aid*, Brennan Center for Justice, April 22, 2011 at http://www.brennancenter.org/content/resource/the_economy_and_civil_legal_services1.

⁴ Board of Governors of the Federal Reserve System, *Press Release*, January 25, 2012 at <http://www.federalreserve.gov/newsevents/press/monetary/20120125a.htm>.

⁵ Dennis Cauchon, *Spending by States and Cities Declines*, USA Today, February 13, 2012 at 1.

⁶ Steve Barr, *supra* note 2.

2011, they lost 833 positions through layoffs and attrition. Together, the loss of 1226 full-time personnel represents a reduction of nearly 14 percent from 2010⁷.

This article explores how services can be preserved despite the decline in staffing. The conclusion is that services can be maintained or even increased if some legal services programs streamlined their operations and maximized the effect of their services.

The first section of this article provides evidence that some LSC programs handle caseloads and other advocacy comparable to those of other programs, but use fewer staff. It also describes some accepted methods for boosting staff output and efficiency. Improving efficiency does not mean working faster or shortchanging time spent with clients. Generally, legal aid staff is hard working and dedicated. Instead, the focus is on using better technology (document generators), methods (telephone conversations can take a sixth of the time required by face-to-face conversations), and systems (assigning common, routine cases to specially trained staff who use streamlined processes). This section does take the somewhat controversial position that programs should provide only the services that clients cannot perform for themselves. This is referred to as unbundling services. This approach is becoming more common among private practitioners who serve middle income clients who simply can't afford full representation. Of course, advocates need to monitor clients in these cases and provide additional services when necessary.

The second section defines effectiveness and shows how some programs can increase their effectiveness and have a greater impact on their clients and the client community. The third section asserts that greater efficiency and effectiveness cannot be achieved without the proper measurements; it proposes a workable set of measurements that will not be burdensome to

⁷ Id.

collect. The article concludes with recommendations to funders and programs that can help them maintain or even increase services despite declining staff.

To understand this article, an explanation of the data LSC collects from programs is required.

For each closed case, LSC collects the types of services that were provided; specifically: counsel and advice, limited action, settled without litigation, settled with litigation, administrative agency decision, uncontested court decision, contested court decision, appeal, other, and extensive services. Extensive and “other” services account for only 3.4 percent of cases and are not discussed⁸. Counsel and advice and limited action cases don’t involve negotiation or representation before a court or administrative agency, require an average of only a few hours to close, and represent 78.1 percent of all cases⁹. An uncontested court decision involves cases where the opposing party does not dispute the client’s position; these cases are particularly amenable to greater efficiencies and make up 4.7 percent of cases¹⁰. An appeal represents the review of a case by an appellate court and is the service most likely to impact the client community in addition to the represented clients¹¹. The remaining cases are referred to as “key services,” as clients are least likely to find these services elsewhere¹². Finally, advice and limited action cases are sometimes referred to as brief services. The remaining cases, including key

⁸ LSC Fact Book 2010 at 19 at http://www.lsc.gov/sites/default/files/LSC/pdfs/LSC_2010_Fact_Book.pdf.

⁹ Id.

¹⁰ Id.

¹¹ LSC, Case Service Report Handbook, 16-7 (2008) at http://www.lsc.gov/sites/default/files/LSC/pdfs/CSR_Handbook.pdf.

¹² Of the low-income people who received help from a lawyer, 74 percent reported that they received that help from a lawyer in private practice. ABA Consortium on Legal Services and the Public, Findings of the Comprehensive Legal Needs Study: Legal Needs among Low-Income Households 53 (1994). Most of these cases involved advice and limited action. Neighborhood Legal Services of Los Angeles County handled 49,100 cases at four court-based self-help centers in one year, whereas the total number of uncontested court cases closed in 2010 by all LSC grantees was 44,258. Diana Avendano, Self-Help Project Coordinator, Neighborhood Legal Services of Los Angeles County, e-mail to author dated July 20, 2006 and LSC Fact Book 2010 at 19, supra note 8. Thus advice, limited action and help with uncontested court cases are most likely to be found elsewhere.

services, uncontested court cases, extensive services, and "other" are sometimes called extended services.

I. Doing more with less

A. Some programs appear to provide comparable services with less staff

Evidence indicates that some legal services programs use fewer staff than others to close a comparable number of cases. There could be several reasons for this: 1) complexity of services provided (e.g., court representation including trial takes much longer than an advice only case), 2) types of cases handled (e.g., foreclosures usually require more time than cases involving wills), 3) number of appeals handled (these cases can take hundreds of hours), (4) amount of advocate time devoted to services other than reported cases, 5) percentage of staff other than paralegals and attorneys (support staff can help advocates handle more cases), 6) types of clients served (e.g., limited English speaking clients often take longer to serve), and 7) differences in the efficiency of the programs. The third issue arises because LSC grantees report the total number of advocates (attorneys and paralegals) instead of those dedicated solely to the reported cases.

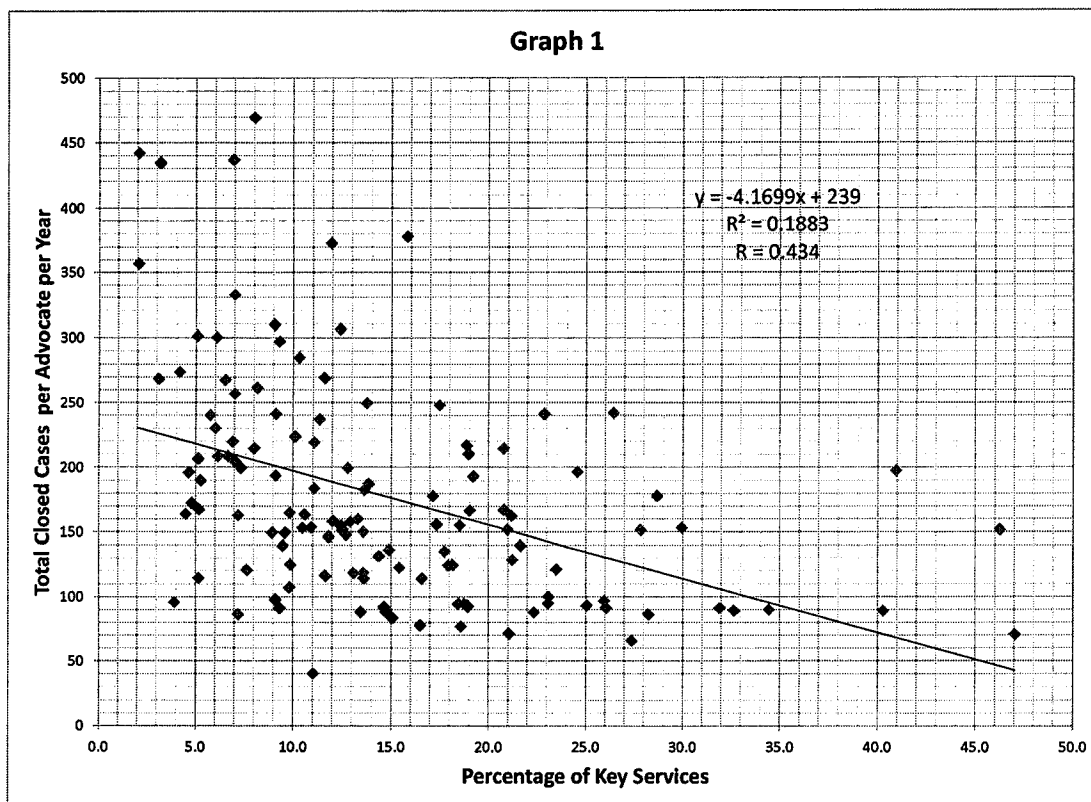
1. Case complexity

The impact of case complexity on the number of closed cases can be determined by plotting the total number of cases closed annually per advocate by case complexity for every LSC grantee¹³. Case complexity is determined by calculating the percentage of cases that are closed with key services, since these are the most complex cases (other than appeals, which are discussed below).

The number of advocates is determined by adding the total number of attorneys and paralegals

¹³ For example, one LSC grantee reported to LSC that it closed a total of 10,849 cases in 2009, employed 61 attorneys and paralegals, and closed 3110 of these cases using key services. The annual average number of closed cases per advocate is 178 and the percentage of key services is 29 percent. Source of data is LSC's response to the author's 03/03/2011 Freedom of Information Act request for 2009 data (on file with author).

employed by each program. Graph 1 below shows the relationship between the total number of closed cases per advocate and the percentage of key services cases they handled in 2009 for all LSC grantees, except those that only serve Native Americans, Guam, and Micronesia¹⁴.



(Two outlier LSC grantees are omitted from the graph: (0.6, 768) and (7.1, 1257)).

As expected, a strong correlation appears between the number of closed cases per advocate and the percentage of key services. Programs that handle a larger percent of key services close fewer cases per advocate. But the graph also shows that LSC grantees that fall well below the sloping line have counterparts above the line that handle a similar complexity of cases. Yet those below

¹⁴ LSC's response to author's request, Id.

the line close 100 to 200 fewer cases per advocate than those above. For example, the key services ratio for two programs is 10 percent but one closes 90 cases per advocate per year (9 key services cases, 81 others) and the other closes 300 per advocate per year (30 key services cases, 270 others). This shows that factors other than case complexity cause the disparity in the data.

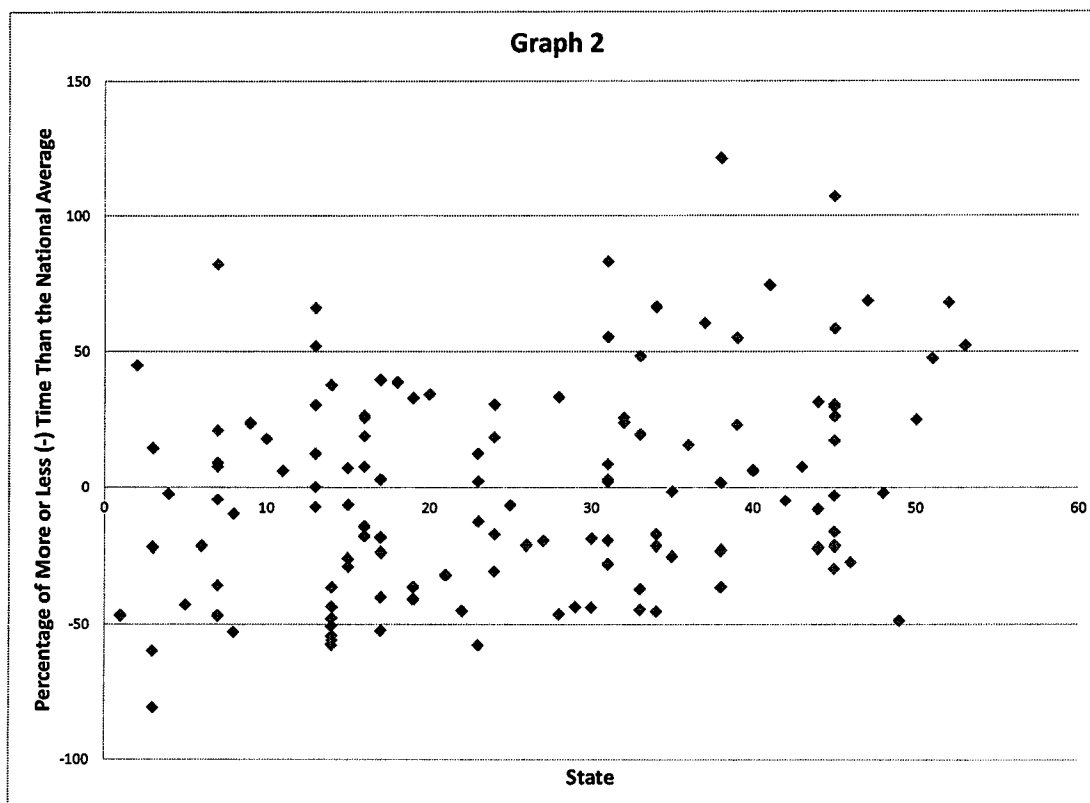
To analyze the effect of the six remaining factors (case type, number of appeals, amount of other services, percentage of other staff, client type and efficiency), it is helpful to use other related data. As explained above, closed cases of LSC grantees can be divided into two categories: brief services and extended services. One can calculate the overall average time that LSC grantees spend on a brief services case and the average for an extended services case using national data¹⁵. These two averages can then be used to calculate the total time required to close each grantee's annual 2009 caseload if its advocates spent the average amount of time on each case¹⁶. One can also calculate the total time they actually used to close their caseload if their advocates each spent 1200 hours annually on them.¹⁷ Finally one can compare the total actual time with the total "average time" as a percentage¹⁸.

¹⁵One can use LSC national data for 2008 and 2009 to determine the average amount of time used to close a brief services case and an extended services case (assuming advocates spend 1200 hours annually on these closed cases and the averages are about the same for both years). The average times for 2009 are 25.76 hours for an extended services case and 2.6 hours for a brief services case. One can double check these times as follows: In 2009, grantees closed 194,626 extended services cases and 725,821 advice and brief services cases (total = 920,447) with 4174 attorneys and 1577 paralegals (total = 5751 FTE advocates). If one multiplies 194,626 by 25.76 and 725,821 by 2.6, adds them (6,900,700), and divides by 1200, this yields 5751. LSC Fact Book 2008 1, 11 at <http://grants.lsc.gov/sites/default/files/Grants/factbook2008forRIN.pdf> and LSC Fact Book 2009 1, 11, at <http://grants.lsc.gov/sites/default/files/Grants/factbook2009.pdf>.

¹⁶ For example, in 2009 one LSC grantee closed 1471 brief services cases and 760 extended services cases with 29 attorneys and paralegals. Assuming an average amount of time was used, its advocates would have spent 23,403 hours on these cases, or $(760 \times 25.76) + (1471 \times 2.6)$. LSC's response to author's request, supra note 13.

¹⁷ In the above example, the program had 29 advocates. If each spent 1200 hours on these cases, they would have actually spent a total of 34,800 (1200x29) hours to close these cases. (It is reasonable to assume that legal aid advocates work about 37.5 hours per week with 13 holidays and an average of 5.6 weeks of vacation and sick leave. This results in 1640 hours worked. Some legal services directors report that about 75% of worked hours are devoted to direct client services, for a total of 1230 billable hours (source: conversation with John Arango on 5/2007)).

¹⁸ Since the "average time" was 23,403 hours and the actual time was 34,800, these advocates spent 49 percent more time than average on the cases $(34800 - 23403) / 23403 * 100$. (Note that it does not matter how many annual hours per



(Three outlier LSC grantees are omitted from this graph (12, 356), (15, 160), and (45, 168))

Some programs spend less time than average on a case and are designated by negative numbers in graph 2, where the “x” axis represents the various states numbered 1 to 53 (including DC, PR, VI), and the “y” axis is the percentage of additional (or less time) that a LSC grantee takes to close a case compared to the national average. Programs that spend more time than average appear above the x axis. By definition, half the grantees fall above the x axis and half below.

Graphs 1 and 2 show a high correlation. All but nine of the 65 LSC grantees that fall at or below the sloping line in graph 1 appear above the x axis in graph 2 (spend more time per case). Also,

advocate are assumed as this number drops out when calculating the percentage; but the analysis does assume that the average annual number of hours for a program’s advocates is the same as the national average).

all but one of the 64 grantees that appear above the sloping line fall below the “x” axis (spend less time per case). The results in graph 2 are more favorable than graph 1 as a net of eight programs that appear below the sloping line (perform poorer than average) appear above the x axis (perform better than average).

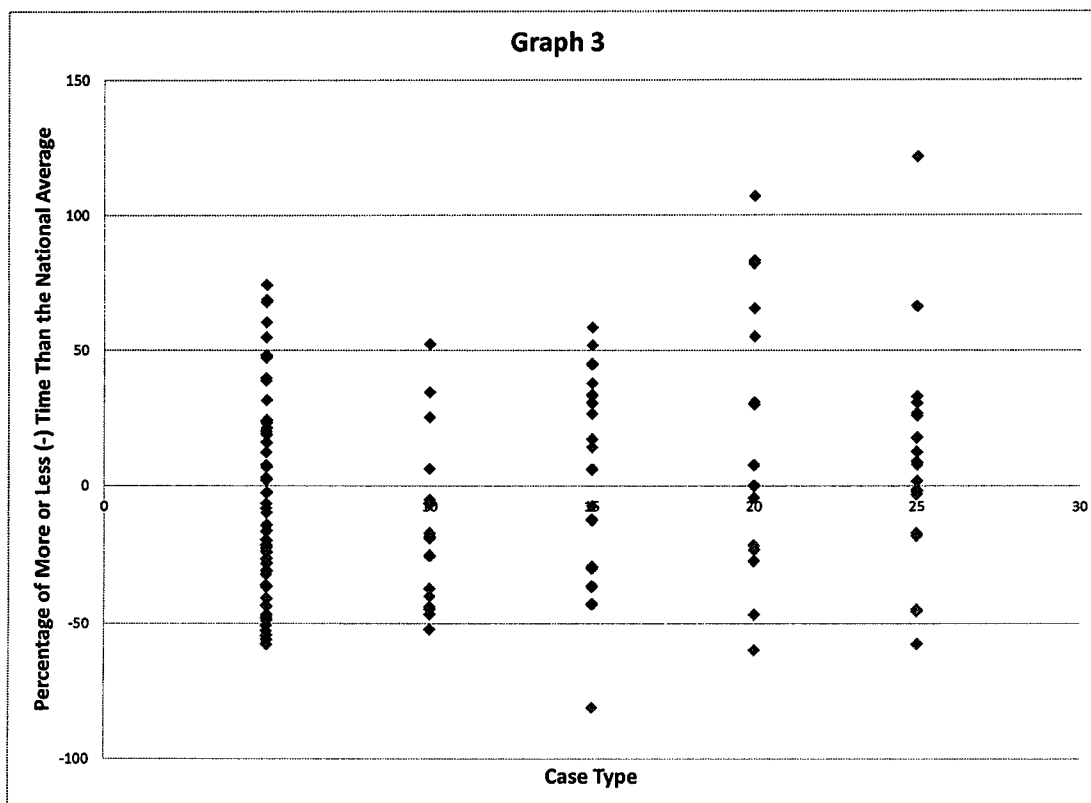
2. Case type

One can use data available from LSC’s website to determine the case types handled by each of the 129 grantees in graphs 1 and 2¹⁹. Case type is reported in ten categories: family, housing, consumer/finance, income maintenance, employment, education, juvenile, health, individual rights and miscellaneous²⁰. Eighty five percent of all cases fall into four categories: family, housing, consumer and income²¹. LSC grantees can be divided into five categories based on the largest and second largest categories of cases handled by each grantee, namely: 1) family, housing, 2) family, consumer, 3) housing, family, 4) housing, income, and 5) other. The data in graph 2 can be plotted verses these case type categories where the categories are numbered: 1) 5, 2) 10, 3) 15, 4) 20 and 5) 25, respectively. This is shown in graph 3 below.

¹⁹ See <http://www.lsc.gov/local-programs/program-profiles>. Although the data is for 2011, it is not likely to vary much from 2009 data, as the percentages of case type usually do not change dramatically from year to year. The percentage of family, housing, consumer and income cases were 35, 25, 12 and 13 in 2010 and 35, 25, 13 and 12 in 2009. LSC Fact Books for 2010 and 2009 at 23 and 15 respectively, supra notes 8 and 15.

²⁰ LSC Fact Book 2010 at 23, supra note 8.

²¹ See note 19 supra.



(Three outlier LSC grantees are omitted from this graph (15, 356), (15, 160), and (15, 168)).

The graph shows that results for programs that predominately handle family and housing cases (5 and 15) are similar to those that predominately handle housing and income cases (20), family and consumer cases (10) and other (25). Therefore these categories do not appear to significantly impact the average time spent on a case. It is possible that a particular case type could have an impact on average time spent, but it is unlikely as no case type constitutes more than 5.3 percent of all cases, except for divorce (13.4), custody/visitation (9.7), and landlord/tenant (14.1)²². The impact of these three case types should be apparent from graph 3 if these case types had a

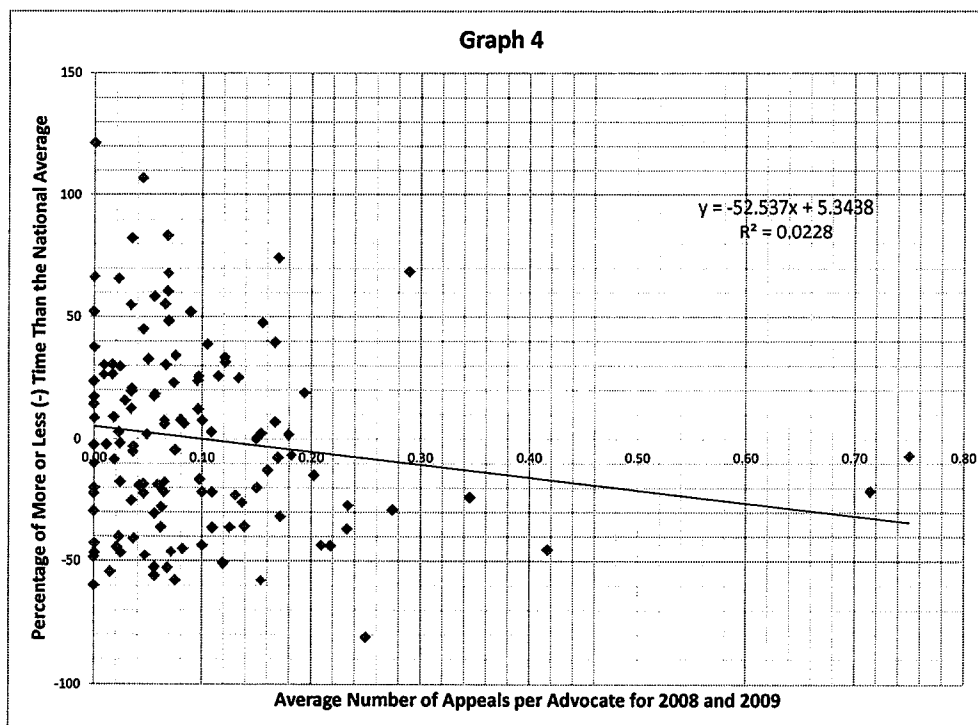
²² LSC Fact Book 2010 at 20-2, supra note 8.

significant influence. Thus, the complexity of services delivered rather than case type seems to be the reason certain cases take more time.

3. Number of appeals.

The number of appeals handled is likely to have an effect on the data, as programs that handle more appeals per advocate should average more time per case than those that do not.

Plotting the data in Graph 2 versus the average number of appeals per advocate for the period of 2008 and 2009 results in graph 4 below²³:



(Three outlier LSC grantees are omitted from this graph (0, 160), (0,168) and (0, 356))

²³ See LSC's response to author's request, supra note 13 and the 06/24/08 LSC response to author's Freedom of Information Act request for 2008 data (on file with author).

Surprisingly, there does not appear to be a significant correlation between the number of appeals per advocate and the average amount of time spent on a case. In fact, grantees with a high number of appeals per advocate spend less time than average on a case. As explained below, these programs may be so efficient that efficiency off-sets the effect of their time consuming appeals. Therefore, graph 4 suggests that reasons other than appeals explain the significant variations in the data.

4. Amount of services other than casework

Another factor is the amount of time program advocates spend on services other than the reported casework. The data in all of the above graphs assume that advocates spend all their time on the corresponding casework. Obviously this is not true, since advocates can spend over 25 percent of their time on other client services. NLADA believes a strong correlation exists between the percentage of funding that a program receives from LSC and the percentage of staff time devoted to casework²⁴. The reason given is that programs that receive substantial funding from other sources are likely to do more non-case activities such as community education, materials and website development, coalition building, community economic development, and other community advocacy²⁵. Also NLADA believes they are more likely to serve non-LSC eligible clients (e.g., moderate-income seniors) and provide assisted self-help services where it is difficult to screen clients for LSC eligibility, such as court-based self-help programs²⁶. Data on

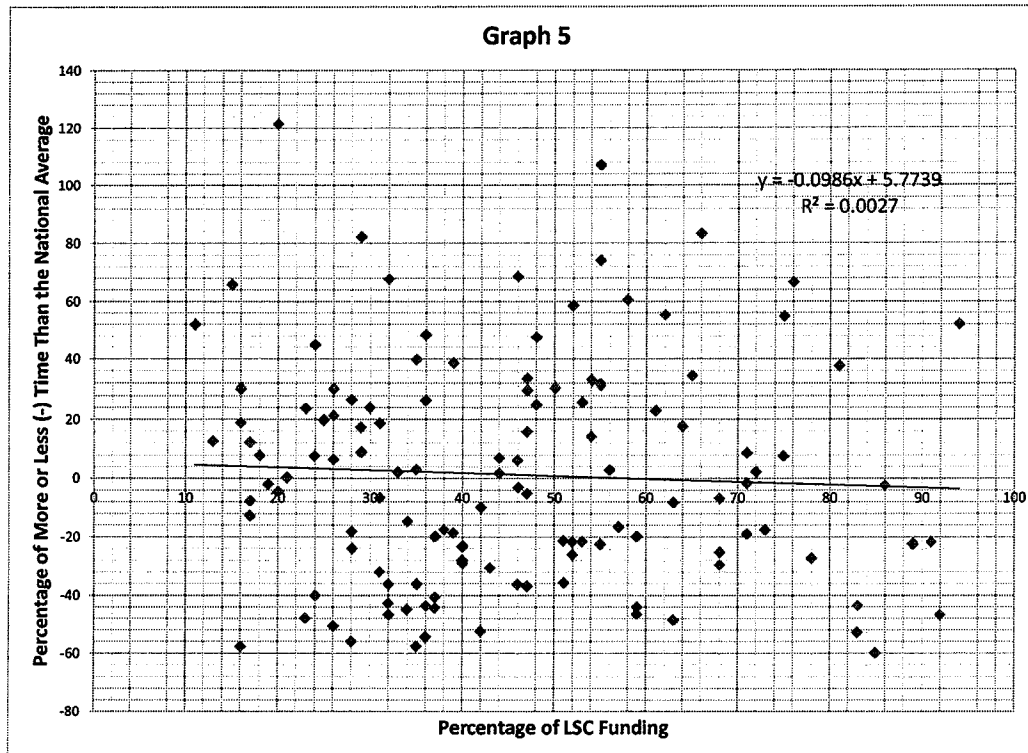
²⁴ NLADA, *Letter to Interested Persons*, April 27, 2011 at 2-4.

²⁵ Note that LSC programs are asked to include in their LSC case reports all the cases of LSC eligible clients that are funded by both LSC and others. LSC, *Case Service Report Handbook* at 2, *supra* note 11.

²⁶ If a client is not screened for LSC eligibility or is ineligible under LSC guidelines, the services provided to the client cannot be counted as a case under its guidelines. *Id.*

the percentage of LSC funding for 2009 is available for the 129 LSC grantees in graph 2²⁷.

Plotting the data in graph 2 versus the percentage of LSC funding results in graph 5 below.



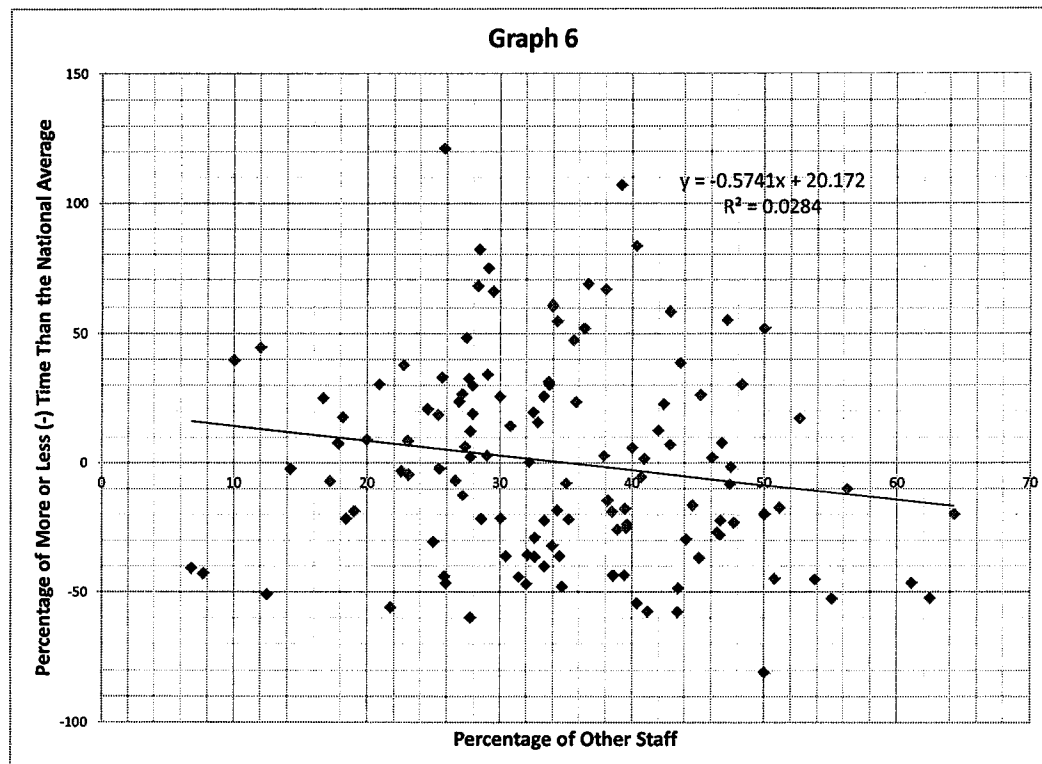
(Three outlier LSC grantees are omitted from this graph (18, 356), (48, 160), and (51, 168))

There does not seem to be a significant correlation between the average time spent on a case and the time spent on other services (reflected by the percentage of LSC funding). This implies that grantees with a high percentage of LSC funding provide as many non-case services as grantees with a lower percentage.

²⁷ See supra note 19.

5. Percentage of other staff

Advocates with more support staff are likely to close more cases annually. Plotting the data in graph 2 versus the percentage of staff other than attorneys and paralegals yields graph 6 below²⁸:



(Three outlier LSC grantees are omitted from this graph (39, 160), (36, 168) and (28, 356))

There appears to be a slight correlation between the percentage of other staff and the average amount of time that advocates spend on a case. Programs with a higher percentage of other staff tend to spend less time on a case. However, many programs are able to achieve the same low

²⁸ See LSC's response to author's request, supra note 13.

times with a much lower percentage of other staff. Thus the percentage of other staff is not a significant reason for the great diversity in the data.

6. Client type

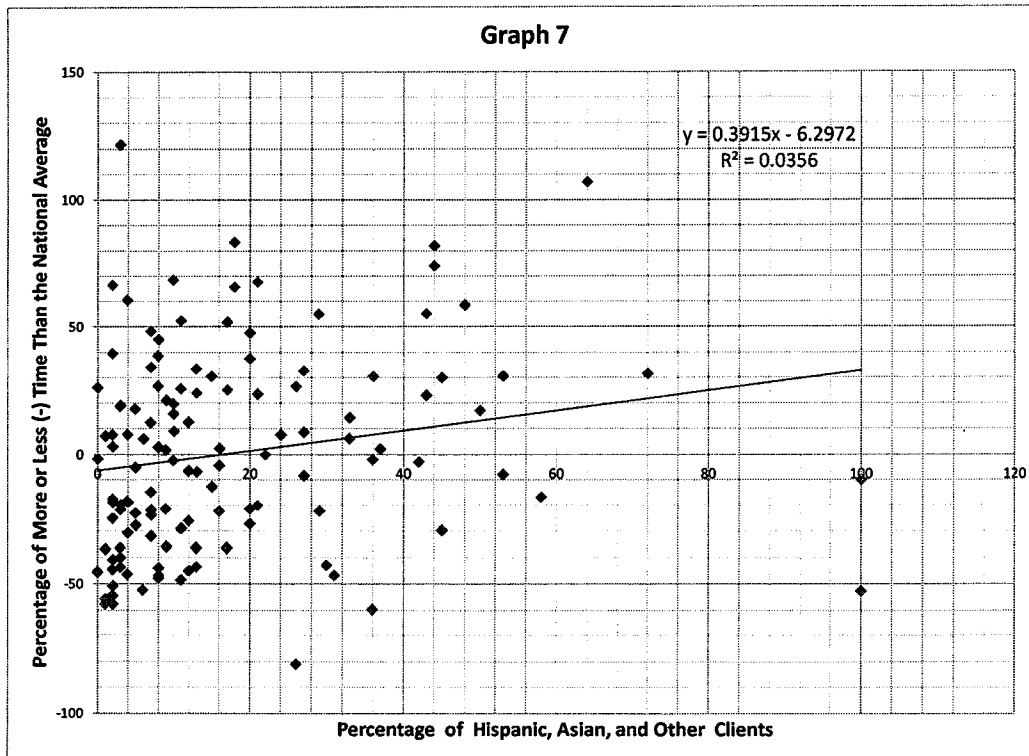
Client type is analyzed next, particularly those who have limited English speaking skills, as it typically requires more time to serve these clients²². The vast majority –77 percent – of people age five and older who speak a foreign language at home live in 11 states²³. One can use data available from LSC's website to determine the client types served by each of the 129 grantees in graph 2²⁴. The percentage of limited English proficient clients is approximated by determining the percentage of clients who are Hispanic, Asian or other²⁵. Plotting the data in graph 2 verses these percentages yields graph 7 below.

²² Paul M. Uyehara, *Opening Our Doors to Language-Minority Clients*, Clearinghouse Review 544, 554 (March-April 2003).

²³ These states are Arizona, New York, Texas, Florida, Illinois, New Jersey, Georgia, Massachusetts, Pennsylvania, Washington, and California. U S Census Bureau, *Language Use in the United States: 2007*, April 2010 at <http://www.census.gov/prod/2010pubs/acs-12.pdf>,

²⁴ See supra note 19. This is 2011 data but should not be significantly different than 2009 data, as client type does not change appreciably over time. The percentage of Hispanic, Asian and other staff served by all LSC grantees was 20, 1.9, 4.3 in 2009 and 18.7, 2.1, 3.9 in 2010. LSC Fact Book 2009 at 18, supra note 15 and LSC Fact Book 2010 at 26, supra note 8.

²⁵ Other is all clients other than Hispanic, White, African American, Native American, and Asian/Pacific.



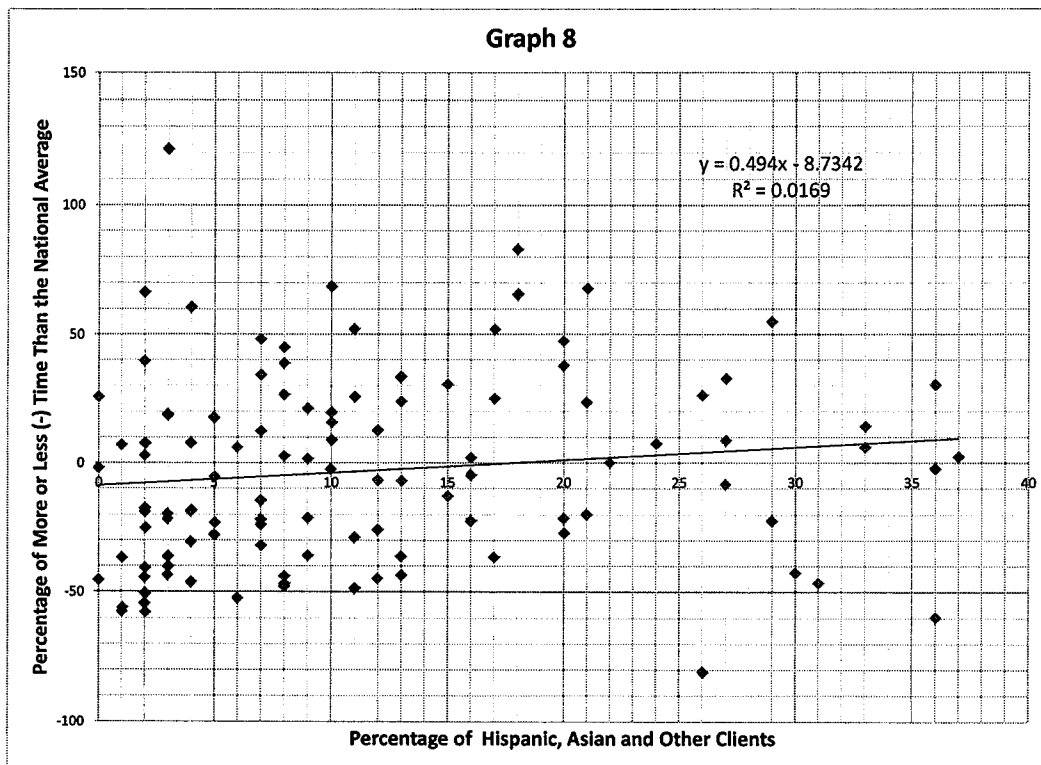
(Three outlier LSC grantees are omitted from this graph (28, 356), (4, 160) and (65, 168))

As expected, limited English speaking clients take longer to serve, but this still does not explain the great diversity in the data.

7. Efficiency

In summary, the average time spent on a case is significantly affected by the complexity of the services provided and the types of clients served, but not case type, number of appeals per advocate, percentage of other staff or the amount of time spent on non-case services. Thus efficiency remains as the most likely additional reason for programs doing more with less. To assess the impact of efficiency, one needs to remove the effect of service complexity and client type from the data. In graph 1, the complexity of the services provided by programs appearing

below the sloping line is comparable to the complexity of the services provided by those above the line. This means that the same is true of programs that appear above and below the x axis in graphs 2 through 6. Thus the difference in the average time spent on a case between the two groups must be based on client type and efficiency. But the effect of client type can be minimized by omitting programs from graph 6 where more than 40 percent of their clients have limited English speaking skills as shown in graph 8 below.



(Two outlier LSC grantees are also omitted from this graph (28, 356) and (4, 160))

This demonstrates that efficiency alone accounts for the differences between the group of programs above the x axis and the group below it. In other words, technology, methods, and/or systems can make a huge difference in amount of services delivered. If these efficiencies were more widely adopted, the existing level of funding could support services to many more people. I have served on teams that have evaluated two of the grantees that fall at the bottom of graph 1 (and the top of graph 2). As described in more detail below, both grantees had notable inefficiencies. They both had inefficient intake systems and one of them had a policy that limited caseloads to 10 to 15 open, active cases; advocates did not accept additional extended services cases until some of these active cases were closed. Advocates in the two programs did not use document generators to produce pleadings and other documents. Neither program used unbundled services to the extent possible, although the ethics codes allowed them. One program had central intake, but not enough intake staff, creating a bottleneck that resulted in a lot of down time for hotline advocates. The other program did not use centralized intake. Neither program used quantity/quality committees. Both programs used case acceptance meetings for intake. Both programs did operate hotlines for advice cases, but many advice cases were not handled by their hotlines. I could not determine the effect these inefficiencies had on the programs' overall performance until I later developed the above data analysis. This is why measurements are so important.

Ironically our evaluation team gave one of these programs a very positive evaluation and the other an overall positive evaluation. There were two reasons for this: First, efficiency is just one component of overall program performance. Other components include fundraising, leadership, financial management, community impact etc. Thus, a program that excels in these other areas, but is inefficient, can still merit an overall positive evaluation. The second reason is that the

evaluation methodology we used and is still used today does not assess such factors as efficiency, outcomes, or even quality. The current methodology primarily relies on interviews with program advocates, managers, and outsiders such as directors of social service agencies, bar leaders, and judges. In addition, some case files are reviewed to assess the quality of the representation. Yet this approach is likely to uncover problems only in the following areas:

- Quality of management
- Whether key practice systems and procedures are in place, such as conflict checking, litigation support, streamlined document production, financial systems for maintaining client trust accounts and collecting court fees from clients, research tools, timekeeping systems, case management software, technology (e.g., computers, printers, photocopiers, faxes, cell phones, PDAs, Internet access), case docketing systems, well-maintained case files, and recordkeeping and reporting systems needed to monitor cases. While the existence of these systems does not guarantee quality, quality is unlikely without them.
- Whether the program adheres to accepted practice standards such as those established by the American Bar Association and Legal Services Corporation.
- Whether case files are periodically reviewed by an experienced attorney and whether advocates receive ongoing feedback about their performance
- Whether advocates have access to and have received adequate training and professional development
- Whether client satisfaction surveys are positive and the program has not had excessive client complaints (although no data are available to allow comparison with national averages).
- Whether advocates are allowed to specialize, as evidence indicates that specialization improves quality.

In other words, we could determine whether a grantee had all the indices of a program that delivers good case services, but not substantiate this fact. While the case file reviews occasionally spotted problems with writing quality or legal strategies, valid conclusions could not be made about the program as a whole, as sample sizes were too small. One purpose of this article is to give evaluators better tools to do their jobs.

While the above analysis is not definitive proof that inefficiencies exist, it is sufficient to justify further inquiry about the reasons for differences in the data. In fact, measurements rarely prove that a problem exists. Their purpose is to identify potential problems that may not be detected otherwise. For example, the billable hour measurement is very important to large law firms. If this measurement is low for a first-year associate, further inquiry about the underlying reasons is warranted. However, if it is low for one of the firm's rainmakers, it does not raise concern.

Because the above measurements are not ideal, I recommend new ones in Section III.

Convincing programs to use the above analysis or a similar one to assess their efficiency will not be easy. Generally they are resistant to using reported data to spot these problems. Also there is not a culture of efficiency among legal services programs. In part, this is because the legal profession in general does not emphasize efficiency as most extended services are still billed on an hourly basis. Also funders of legal aid do not stress efficiency in their performance criteria, grant conditions or evaluations.

In contrast, prepaid legal services, which serve a high volume of clients with similar problems, are obsessed with efficiency through streamlined methods, technology and time-saving systems. Since they generally receive either fixed fees or a set price per member for their services, their income depends on their efficiency. Also the employers, unions and employees who pay for

these services are very cost conscious. Legal aid programs and their funders need to develop the culture that is prevalent in the prepaid industry.

8. Other data that reflect on efficiency

The ratio of managers to non-managing advocate staff can also effect efficiency. Consultants that advise city and county government law offices recommend that the ratio of management attorneys to non-management attorneys be no more than 0.10 to 0.15²⁶. In contrast, the average ratio of management attorneys to non-management attorneys and paralegals for all LSC grantees in 2010 was 0.25²⁷. While time spent managing volunteers may account for some of this difference, program directors should calculate this ratio and determine if it can be reduced.

B. Methods that can improve efficiency

Much can be learned about efficiency by studying programs that occur below the x axis in graph 8. However, some efficiencies are well known. Two are discussed above: reduction of the ratio of managers to non-managing advocates, and reduction of the percentage of other staff. Others appear below.

1. Use of streamlined systems to handle cases

Advice

²⁶ See James Wilber, Altman Weil, *Best Practices of City and County Civil Law Offices* at http://www.altmanweil.com/dir_docs/resource/b0541231-be60-491b-96ab-c6f1d5e1b4c5_document.pdf.

²⁷ 1128 managing and supervising attorneys and 4553 staff attorneys and paralegals. LSC Fact Book 2010 at 35, supra note 8. See also Author's Book at 193.

Available data demonstrate that advice delivered by phone takes much less time than that delivered face to face, so the telephone should be used unless the client has special needs or complex documents²⁸. Research indicates that the outcomes of telephone advice services are as good as or better than those of face-to-face services²⁹. A rule of thumb in the prepaid legal services industry is that the average telephone advice call lasts less than 10 minutes³⁰. Hotlines that collect this information report averages between 7 and 15 minutes³¹. Time spent recording case notes and sending follow-up letters should not average more than 20 or 30 minutes using commercially available technology. Therefore, most advice-only cases should average less than one hour.

Longer averages may be the result of providing face-to-face services to too many clients, failure to use document generators and standardized paragraphs to record case notes and prepare follow-up letters, or failure to use good call management techniques.

By far the most efficient way to handle advice-only cases is a legal hotline³². This is not only due to the efficiency of the phone and addressing the client's matter upon the first contact with the program, but also to the efficiency of the technology, processes and the quality control system. A hotline advocate can close 1360 cases annually and refer 340 more cases to other parts of the program³³. This means advice cases take less than an hour to close³⁴. Some advocates close as

²⁸ Wayne Moore, *Limited Legal Advice and Services*, Maryland Bar Journal, Vol. XXXII, No.2 20 (March/April 1999).

²⁹ Community Legal Service, *Methods of Delivery, Telephone Advice Pilot: Evaluation Report 52* (Sept., 2003); Center for Policy Research, *The Hotline Outcomes Assessment Study: Final Report – Phase III 67* (Nov. 2002) at <http://www.nlada.org/DMS/Documents/1037903536.22/finalhlreport.pdf>.

³⁰ Author's conversation with John R. Wachsmann of Wachsmann and Associates, P.C., Englewood, Colorado, who serves five national and regional prepaid plans..

³¹ Author's Book at 125, supra note 34. See also Wayne Moore at 21, supra note 35.

³² Id at 117-33.

³³ Id at 123-126,

³⁴ See supra note 17. Assuming hotline advocates spend 1200 hours annually on cases, they average 53 minutes per case (1200/1360*60)

many as 2982 cases annually³⁵. Hotline advocates do not have to be in the same location (although this has some advantages), so a program can easily create a hotline by designating existing staff to receive incoming calls during certain hours each week. A centralized intake system can facilitate this process. If a program uses a hotline but the average time to close an advice case is higher than an hour, the program should improve the hotline's efficiency and ensure that it handles most advice cases instead of less specialized advocates.

Hotline advocates should periodically keep track of the time spent on the phone to identify those who need more training in call management skills. Advocates can reduce excessive non-call time by using standardized paragraphs to prepare case notes and follow-up letters and by minimizing call-backs.

Limited action

The average time spent on limited action cases should range between two and three hours. Some units that specialize in limited action cases only handle cases that require less than two hours of service³⁶, since these cases are limited to investigation, advice, and document preparation, but not negotiation or other forms of representation.

The most efficient way to handle many routine limited action cases is to dedicate specially trained staff and use document generators and streamlined procedures. For example, in debt cases where the client is judgment-proof, advocates can use document generators to prepare letters to creditors for the clients' signature and mailing, with supplemental self-help materials for further guidance (average two hours). Clients are provided addressed, stamped envelopes and are instructed to call the advocate if the problem persists. Higher averages are usually the result

³⁵ Elizabeth Shearer, *To Study Telephone Legal Advice Services*, Winston Churchill Memorial Trust of Australia 11 (2003); if they spent 1200 hours annually, they would average 24 minutes per case.

³⁶ Author's Book at 145, *supra* note 34.

of providing too many clients with face-to-face services, failure to use document generators, failure to use specially trained and dedicated advocates, or failure to use streamlined processes to handle routine cases.

Uncontested court cases

The average time spent on uncontested court cases should range between three and four hours if unbundled legal services are used. Court-based self-help centers average less than an hour on these cases³⁷. As discussed below, I provided unbundled services in case types commonly handled by legal aid programs and achieved these time averages over a three-year period.

Other extended services cases

The most cost-effective method for handling these cases is using volunteer attorneys. Therefore, volunteers should be used for extended services cases whenever possible.

2. Use of document generators

Using document generators instead of filling in forms, cutting and pasting, or drafting documents from scratch can substantially improve productivity. One prepaid legal services provider noted that its Boston advocates were less efficient than those in its Washington, D.C. office. The managing partner found that the Boston advocates were not using the firm's document generator to the extent possible; instead they were using fill-in forms and cut-and-paste. The Boston advocates were told (nicely) that if this wasn't corrected, they should look for other jobs³⁸. Subsequently the productivity of the Boston office matched that of the Washington

³⁷ Id at 158-61.

³⁸ Author's conversation with Paul K. Regan, head of Regan Associates Chartered, Boston, MA.

office. Commercial document generators are available to many legal services programs, sometimes at a discount³⁹.

3. Use of unbundled legal services

Most states allow lawyers to deliver unbundled legal services⁴⁰. These are services where a lawyer and client agree that the lawyer will provide some, but not all, of the work involved in traditional full-service representation. The lawyer performs only the agreed-upon tasks, rather than the whole “bundle,” and the client performs the remaining tasks on his or her own.

After retiring from AARP, I successfully engaged in a fee-for-service, unbundled law practice for three years serving low- and moderate-income people in DC, Maryland, and Virginia. I developed four criteria that I used to decide whether a case was appropriate for unbundled services: 1) abilities of the client (I didn't serve clients with mental disabilities, limited English speaking skills, or hectic lives where they could not be expected to represent themselves), 2) simplicity of proving the case (cases that can be proven with testimony or the submission of simple documents), 3) presence of an attorney for the opposing party (I usually only handled cases where opposing party was pro se, except in uncontested cases), and 4) whether the decision maker (e.g. judge) had little discretion (I usually only handled these cases).

Nonetheless, many court cases were amenable to unbundled services. I handled these cases as follows:

- Bankruptcy (Chapter 7, no-asset): While interviewing clients, I filled out most of the forms in pen (forms for pro se clients don't need to be typed); I then asked them to fill out forms F, I, and J and return them to me along with other documents. (Best Cases software has a feature

³⁹ See www.directlaw.com

⁴⁰ See http://www.americanbar.org/groups/delivery_legal_services/resources.html.

that allows all creditor and debt information from the three credit bureaus to be downloaded onto F forms, which then can be supplemented by the client). I reviewed the returned forms and documents over the phone with clients, made necessary changes to the petition using white-out, and mailed the client the complete package of forms with post-it notes indicating where to sign. I did not sign the forms. Clients filed the forms and represented themselves at hearings following my written and oral advice. They also represented themselves at hearings to allow the retention of a car. I served hundreds of clients in DC, MD and VA in this way and didn't encounter a problem; but if one does arise, attorneys can always enter their appearance in the case. Average time: three hours.

- Child support: I used document generation to complete all the required forms and prepared pro se subpoenas and other documents needed to obtain the opposing party's income and health insurance information. I also calculated the amount of child support that should be awarded using state formulas. Clients filed all the papers, arranged for service of process, and represented themselves at the hearing using the subpoenaed documents and papers proving their own income. I provided oral and written advice throughout the process. Average time: two to three hours.
- Enforcement of child support, alimony, and custody orders; visitation cases where a spouse was being denied visitation and no abuse was being alleged; and cases seeking reasonable changes to child support or visitation orders: I handled these the same way as child support cases. Average time two to three hours.
- Domestic abuse – temporary protective orders: Although I did not handle these cases, court staff and others successfully use unbundled services by preparing pleadings and affidavits

and informing clients on how proceed pro se⁴¹. The client can then be referred to social services for additional help⁴², and the attorney can reenter the case as needed.

- SSA/SSI disability cases: These cases can be contracted to private practice attorneys by paying them the difference between an agreed-upon flat fee and the payment they receive from SSA, if necessary. The cost is usually much less than having program staff handle these cases. This allows the program to handle other cases where alternative representation is not available.
- Unemployment compensation: There is evidence that these cases can be handled pro se with advice and document preparation assistance⁴³.
- Landlord/tenant cases with no defenses: In some states pro se clients who have been coached can obtain as much time to move out as those who are represented⁴⁴. (Clients with defenses must receive full representation; even representation during negotiation isn't very effective unless the attorney is willing to proceed to trial).
- Contested divorce: I even handled some contested divorce cases where the other side was represented by a lawyer. I prepared my client's court pleadings and a draft separation agreement favorable to my client, which could be used as a starting point in my client's negotiations with his or her spouse. I told my client not to talk to the opposing attorney but to speak only to the spouse. I would help the client through the discovery process by preparing interrogatories, motions, requests for documents, and pro se subpoenas. By this time, the opposing spouse's legal bills had usually reached \$5000 to \$8,000, whereas my client had

⁴¹ See, for example, <http://www.dccourts.gov/dccourts/superior/dv/index.jsp>.

⁴² Social workers are better trained than lawyers to handle clients' safety and other issues.

⁴³ See D. James Greiner & Cassandra Wolos Pattanayak, *What Difference Representation? Offers, Actual Use, and the Need for Randomization*, Yale Law Journal, Vol. 121, 2011 at <http://biolawgy.files.wordpress.com/2011/03/what-difference-representation.pdf>

⁴⁴ Norman Janes, *Statewide Legal Services of Connecticut, Inc., Pro Se Eviction Outcome Study*, AARP Legal Hotline Quarterly 6 (Summer 2004).

spent less than \$1000. This difference in fees often caused the opposing spouse to agree to settle the case with guidance from his or her counsel. I advised my client throughout the process, but didn't sign any pleadings or talk to the opposing counsel or anyone else.

Programs should calculate the average number of hours billed to the above case types, if the averages are significantly above two to four hours, consider the above approach.

These cases should be monitored until conclusion to ensure clients obtain their objectives. The attorney can enter an appearance in the case whenever necessary. Sometimes the advocate can also reopen or appeal cases with unfavorable outcomes. Furthermore, programs can use outcome information to develop better protocols for screening out cases that are inappropriate for unbundled services.

Note that I was able to engage in unbundled services in Virginia even though its courts and ethics codes do not specifically authorize unbundled practices. This was because the courts I dealt with allowed the ghostwriting of court pleadings without disclosure of the name of the drafting attorney.

4. Use of streamlined intake systems

The cost of intake can represent up to 25 percent of the cost of an extended services case and 50 percent of the cost of an advice or limited action case⁴⁵. Inefficient intake is a common source of lower productivity.

For maximum efficiency, a client should interact with only two people before he or she is accepted (or rejected) for services. One interaction is required to screen for eligibility, because LSC grantees have complicated eligibility and documentation criteria. The second contact should

⁴⁵ Author's Book at 34, *supra* note 34.

be able to accept the client for services, and, preferably, be able to close most cases requiring only advice or limited action, as these are the majority of cases closed⁴⁶. In a few circumstances, the second person should provisionally accept cases for representation, such as clients sent to the pro bono unit where a volunteer may not be available.

Many programs still use case review meetings to screen cases⁴⁷. These meetings can use over seven percent of advocates' annual billable hours and delay the commencement of service by more than a week⁵⁵. These meetings should be eliminated. The training and camaraderie benefits can be provided at much less expense using other methods. If telephone intake occurs at more than one office or unit within a program, centralizing it at one of these points is more efficient. Information and referral services find that decentralized intake costs around \$16.35 per call, while centralized intake averages about \$5.20 per call as a result of economies of scale and more efficient use of staff⁴⁸.

Centralized intake staff can more easily use protocols to ensure that cases are handled efficiently. They can refer all cases likely to need advice-only to a hotline, if the program has one. They can schedule appropriate clients for the next pro se clinic; refer certain high-volume, routine cases directly to a staff member who specializes in them; and send cases appropriate for volunteers to

⁴⁶ LSC Fact Book 2010 at 19, *supra* note 8.

⁴⁷ These meetings usually occur weekly or sometimes bi-weekly and include most of the advocates working in an office or unit. These advocates spend two to four hours discussing the facts of each case, the issues involved, and whether it should be accepted for representation. Over half the cases are not accepted. Programs support this practice by saying that it is a good way to spot issues that individual advocates might miss and to brainstorm strategies; they say it also builds camaraderie and serves as continuing legal education for less experienced attorneys.

⁵⁵ Author's Book at 83-4, *supra* note 34.

⁴⁸ Dan O'Shea, Christopher King, et al, *National Benefit/Cost Analysis of Three Digit-Accessed Telephone Information and Referral Services*, University of Texas at Austin 16 (Dec 2004) at <http://www.utexas.edu/research/cshr/pubs/pdf/211costanalysis.pdf>.

the pro bono unit, thereby helping to utilize all available volunteers. Cases likely to require complex services can be referred to the appropriate manager for assignment to staff or a referral back to intake to decline representation. These processes minimize steps and send cases to the most efficient case handler.

The intake system is the first and often only contact a client has with a program, since most intake systems turn away more eligible people than they accept⁴⁹. Centralized systems can be better managed to make sure that rejected clients are not reluctant to use services in the future and their friends and neighbors aren't discouraged from calling at all. They can also better maintain accurate lists of referral agencies and their eligibility and contact information.

Clients with communication, emotional or mental health problems; certain farm workers, Native Americans and people with limited English proficiency; and others with special needs will require a more expensive intake system⁵⁰. But the needs of a few shouldn't be a reason for all clients to receive more expensive intake processing.

Some programs receive cases through informal intake processes, as when an advocate receives a call from a prior client. It is best to eliminate these processes, because such cases rarely utilize the least expensive delivery system.

5. Use of group services

Delivering some services to groups rather than individuals can be more efficient.

Programs provide pro se workshops in a variety of issue areas, including family law, housing, consumer, bankruptcy, guardianship, employment, special education, criminal record

⁴⁹ Legal Services Corporation, Documenting the Justice Gap in America 4 (Sep. 2005) at <http://www.lsc.gov/justicegap.pdf>

⁵⁰ Community Legal Service at 20, supra note 36. Note that hotlines have been successfully used to serve limited English speaking populations. See National Asian Pacific American Bar Association, *Increasing Access to Justice for Limited English Proficient Asian Pacific Americans* 46-7 (Mar. 2007).

expungement, advance directives, and driver's license renewals⁵¹. It is essential that programs monitor these cases until conclusion to ensure that clients obtain their objectives⁵². Also, one should be mindful that unbundled services can sometimes consume less time per case and with better results than group services.

6. Use of quality and quantity committee

A number of programs have enhanced the quality and quantity of services by creating a central committee that focuses on quality and best practices and sets quantitative goals for advocate staff⁵³.

II. Effectiveness

Evidence suggests that some legal services programs could be more effective, based on the following definition.

A. Definition of effectiveness

Case outcomes are one component of effectiveness. These are what clients want and advocates strive to achieve. Another component is value added. This means providing only the services the client needs. If programs provide more services than needed, other clients go unserved. If programs provide fewer services, desired outcomes may not be achieved and the services largely wasted. The third component is providing services that low-income clients are least likely to find elsewhere⁵⁴. Since legal services are usually the resource of last resort, they

⁵¹ AARP Foundation, Pro Se Legal Services Directory (May 2002).

⁵² Proper monitoring can increase case completion rates from 15 to 25 percent to 80 to 88 percent. Gabriel Hammond, *Tides of Change: Access to Justice Programs in Hawaii*, Management Information Exchange Journal 47, 49-50 (Summer 2000).

⁵³ Jeanne Charn, *Quality Assurance at the Provider Level: Integrating Law Office Approaches with Funder Needs*, 20-7 at www.mbf.org/JAGWG5QualityAssuranceattheProviderLevel.pdf

⁵⁴ See supra note 12.

should focus on services unavailable elsewhere. The fourth component is handling case types that are the highest priority based on local needs assessments.

This definition of effectiveness is well suited to legal services for low-income clients, as clients can often achieve favorable outcomes without receiving full representation. For example, a detailed study of telephone legal advice found that advice alone can help low-income clients obtain favorable outcomes for many types of legal matters⁵⁵. Court-based self-help programs provide legal information and assistance with drafting documents, which help many clients obtain favorable court decisions, particularly in uncontested cases⁵⁶. Of course, clients need full representation in some matters. Maximizing effectiveness is different from maximizing the number of clients served, which primarily involves providing advice and limited action.

B. Evidence that some programs can improve effectiveness:

1. Cases that warrant a right to free counsel

The services most critical to low-income clients involve cases that are so important that advocates believe they justify a right to free counsel. The ABA has identified these cases to include “adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health, or child custody, as determined by each jurisdiction”⁵⁷.

⁵⁵ The 2002 Hotline Outcomes Assessment Study found that in cases involving a dispute with a private party, 59 percent were resolved favorably based on legal advice alone. The same was true for cases requiring court action where 46 percent were favorably resolved with advice only. In cases requiring an agency decision, 33 percent were favorably resolved. Center for Policy Research at 43, *supra* note 36.

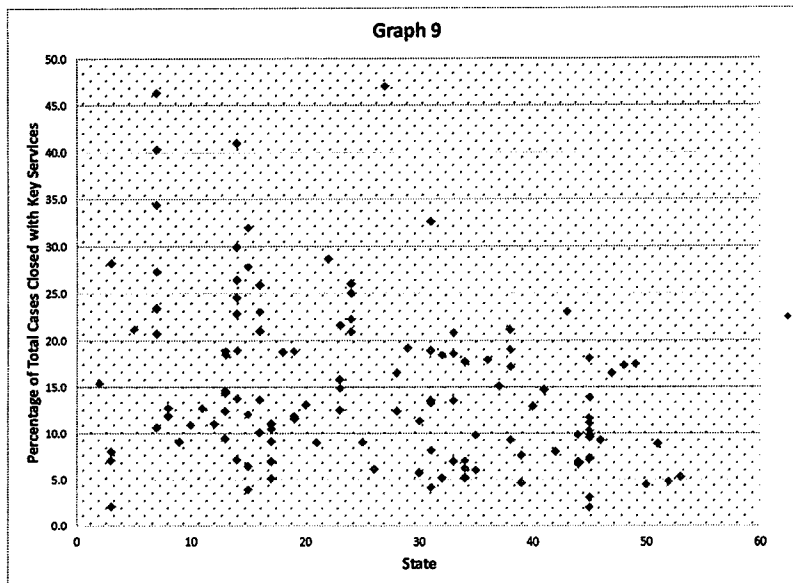
⁵⁶ See *supra* note 12.

⁵⁷ American Bar Association, *Basic Principles of a Right to Counsel in Civil Legal Proceedings*, August, 2010 at http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_105_revised_final_aug_2010.authcheckdam.pdf.

California describes these cases as “matters involving critical issues affecting basic human needs”⁵⁸.

These “right to counsel” cases, by their nature, require settlement with or without court involvement, an administrative agency decision, or a court decision in a contested case (i.e., key services). They generally cannot be resolved by counsel & advice, limited action, or uncontested court decisions. Yet for some programs these four complex services make up a small percentage of their cases, while other programs handle a high percentage of them. This is shown in graph 9 below, which includes all LSC grantees for 2009 except for those that serve only Native Americans, Guam, and Micronesia. The five grantees that are basically hotlines are also not included as they generally don’t provide key services.

⁵⁸ Sargent Shriver Civil Counsel Act (California AB 590) at http://brennan.3cdn.net/bc0ba4fe66e59bb83c_o0m6bx98c.pdf.



This graph shows the percentage of key services for each program in a state where states are numbered from 1 to 53, including the District of Columbia, Puerto Rico, and Virgin Islands. It is hard for a program to justify a low percentage as surveys find that only about 20 percent of the need is being met⁵⁹ and programs typically turn away more than 50 percent of eligible clients who contact them⁶⁰. Thus, some programs should handle more “right to counsel” cases.

2. Cases provided partial services when more extended cases are needed

⁵⁹ Robert Echols, *State Legal Needs Studies Point to “Justice Gap*, ABA Dialogue 32, 33 (Summer 2005) at <http://www.nlada.org/DMS/Documents/1125689452.32/Dialogue.pdf>.

⁶⁰ Legal Services Corporation at 4, *supra* note 57.

A report by LSC states: “LSC grantees were asked to capture the number of clients that they assisted in a limited fashion where full extended representation would have been more likely to enable the client to obtain a satisfactory outcome. LSC grantees counted 76,000 such cases in the two-month period. This figure does not include cases where the programs judged that the advice and brief service provided was sufficient to resolve the problem presented. Programs estimated that, during the two-month study period, 54,000 cases were resolved in this manner.⁶¹” Extended representation was not provided because of a lack of resources. Handling a certain number of these cases is inevitable, because the services required for a particular problem are not always clear during intake. A case accepted for brief services may turn out to need extended services that are not available. But when these cases can be identified at intake, effectiveness would be enhanced if these cases were rejected in favor of cases where all necessary services can be provided.

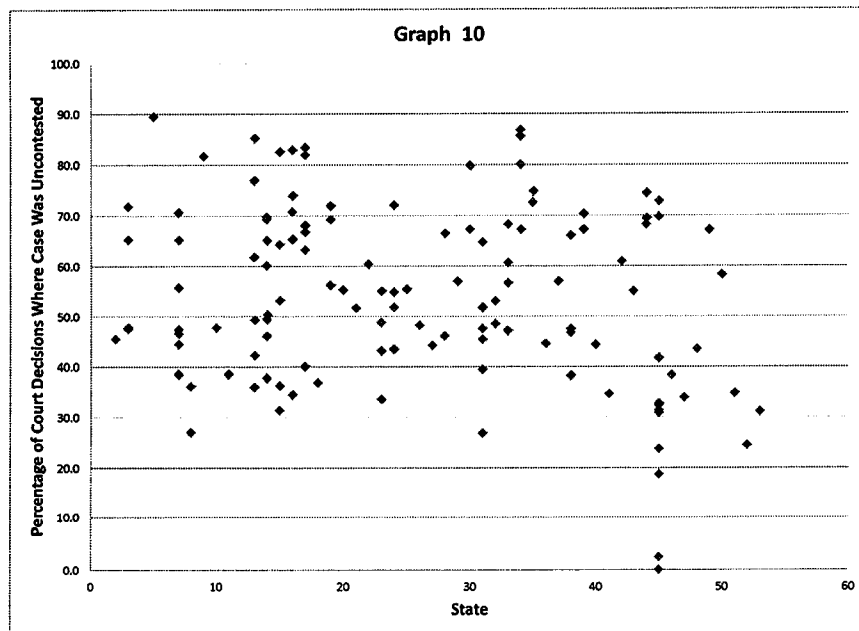
3. Uncontested cases

Fifty-seven percent of fully represented clients who obtain court decisions have uncontested cases⁶². Nevertheless, experience with court-based self-help centers and unbundled services indicates that many of these cases can be handled with advice and document preparation where the clients represent themselves in court⁶³. This would free up time that could be spent on other cases and make programs more effective. Graph 10 below shows this percentage for all LSC grantees in 2009 except for those that serve only Native Americans, Guam, and Micronesia and the five hotline grantees.

⁶¹ Legal Services Corporation at 10 fn 8, Id.

⁶² LSC Fact Book 2010 at 19, supra note 8.

⁶³ See Section I.B.3.



4. Volunteer lawyers

The vast majority of programs do not use all their recruited volunteer lawyers every year⁶⁴, mainly because they don't always have cases that correspond to the expertise or interest of these lawyers. Nevertheless, using all recruited volunteer lawyers should be possible, since programs turn away over 50 percent of the eligible clients who contact them⁶⁵.

⁶⁴ Author's Book at 179, *supra* note 34.

⁶⁵ See LSC at 4, *supra* note 57.

Also, because of the cost of recruiting and training volunteer attorneys and screening and referring cases to them, it is much cheaper to use paid staff to close advice and limited action cases⁶⁶. As shown in table 1 below, about two-thirds of referred cases are of this briefer nature⁶⁷.

TABLE 1

Year	Advice	Limited Action	Referral after legal review	Withdrew	Negotiation, Court/Agency Decision or "Other"
2008	42.3%	22.3%	-	-	35.4%
2007	42.0%	21.6%	0.8%	3.5%	31.3%
2006	42.1%	18.3%	1.7%	4.2%	32.7%
2005	43.2%	18.1%	1.3%	4.4%	32.4%
2004	43.1%	17.9%	1.8%	4.8%	31.5%

Since the legal work is free, volunteers should be used for more complex cases whenever possible. In addition, programs need to develop better methods to ensure that nearly all volunteers accept cases annually⁶⁸.

5. Coordination of services

Legal services providers deliver a much broader array of services than does a typical small law firm, including advice, limited action, pro se workshops, assisted self-help, negotiation, representation at agency hearings, litigation, appeals, outreach, client education, materials and websites for use by clients and advocates, and impact advocacy. Impact advocacy

⁶⁶ Author's Book at 173, supra note 34.

⁶⁷ Data include closed cases of Judicare programs and contract attorneys as well; LSC does not report these data separately for pro bono attorneys. See LSC's 6/24/08 response to author's request, supra note 23.

⁶⁸ See Section II. C. 1.

itself can utilize many different approaches⁶⁹. Thus, to be more effective, providers need better tools to manage these services, because staff must carefully coordinate not only their work but also the timing of their work. The proven method for doing this is a work plan⁷⁰. Nevertheless, few programs use this management tool, although they would be more effective if they did.

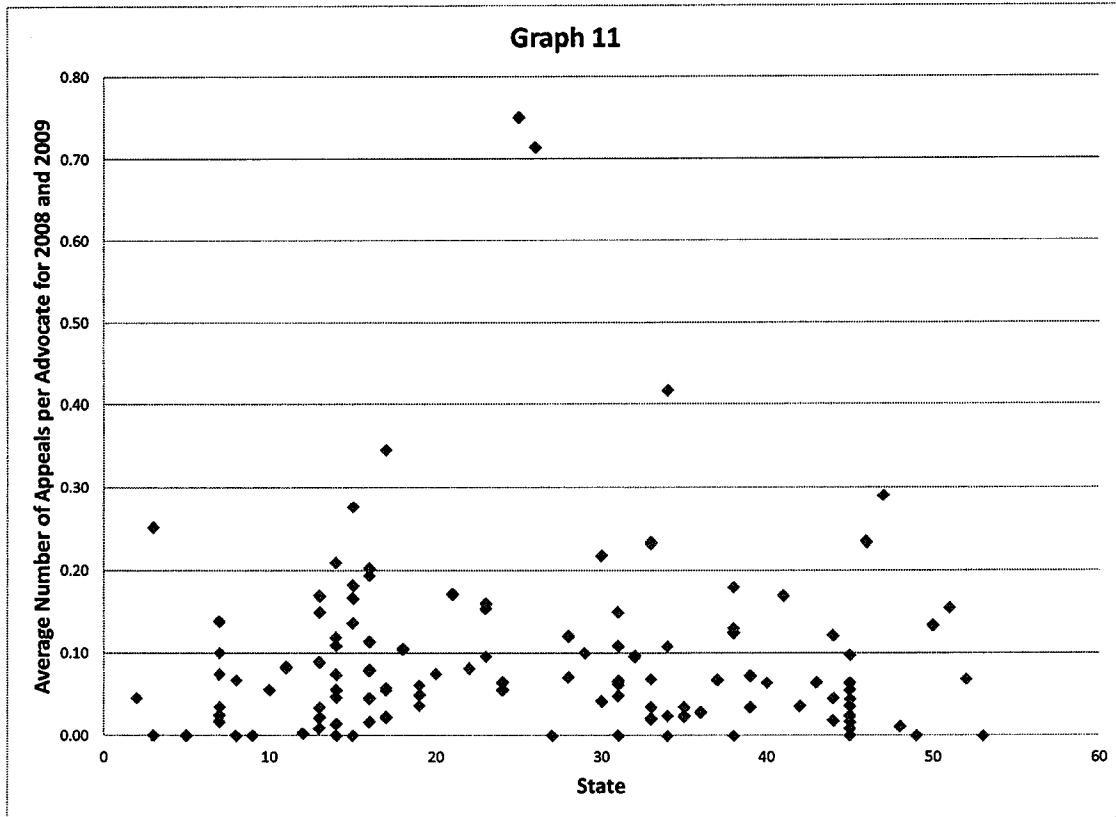
6. Litigation and court appeals

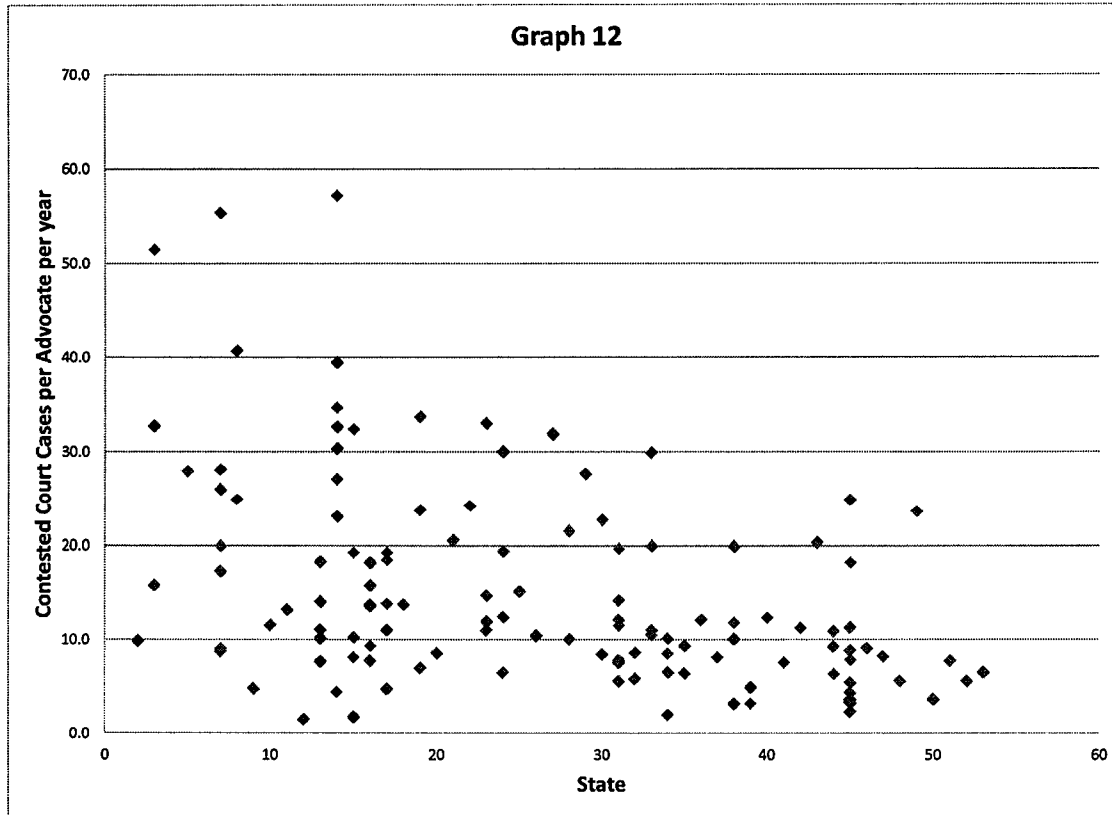
Contested litigation resolved by settlement or court decision and court appeals are the kinds of casework most likely to go beyond the parties represented to have a favorable impact on the low-income community. These are the cases most likely to set a precedent, prohibit an unfair business or government policy, or find that a law is unconstitutional, for example. Thus programs can be more effective if they handle more of these cases per advocate. Handling fewer of these cases can be justified if a program engages in other forms of advocacy that can positively affect the client community, such as community economic development and coalition building. Graphs 11 and 12 below show the average number of appeals per advocate over a two-year period (2008 and 2009) and the number contested litigation cases per advocate in 2009 for all LSC grantees other than those that serve only Native Americans, Guam, and Micronesia and the five legal hotline grantees⁷¹.

⁶⁹ Community economic development, building strategic alliances, group representation, individual test cases, investigation and research, fundraising, legislative advocacy, media exposés, rule making, changing court rules, policy advocacy, use of non-attorney volunteers and delivery system development.

⁷⁰ Legal Aid Society of Greater Cincinnati uses this approach very successfully.

⁷¹ See LSC's response to the two author's requests, *supra* note 23.





These data indicate that some programs could be more effective.

C. Methods that can improve effectiveness

Much can be learned about effectiveness by studying the programs that score well in Graphs 9 through 12. Several methods for improving effectiveness are described above, specifically: 1) handle more “right to counsel cases”, 2) use work plans, 3) minimize the number of cases that receive brief services when more extended services are needed, 4) reduce the

number of uncontested court cases that receive full representation, and 5) handle more contested court cases and appeals per advocate.

Other methods include the following:

1. Develop methods for using volunteer lawyers more effectively

As mentioned above, some programs need to increase the percentage of recruited volunteer attorneys who receive cases each year and the percentage that provide key services. One way to do this is to allow the pro bono unit to have the first choice of available cases rather than staff advocates, as is more common. Another method is to simplify the referral process and spend more resources on finding cases that match volunteers' expertise. This method uses an Internet-based scheduling system that allows volunteers to commit in advance (and change as needed) the types of cases they will accept and the months during which they will accept them. This commitment process should be a condition of participation. Staff can then refer cases without additional volunteer approval and devote more time to finding the right case mix through partnerships with libraries, social service agencies, and the courts.

2. Improve client satisfaction

Programs should conduct standardized client surveys using statistically valid methods so that results can be compared among programs. It is difficult to truly assess client satisfaction in a vacuum. Comparable data helps programs determine if improvement is needed. Programs could supplement these surveys with their own questions. These standardized questions could include: "What difference has legal aid made in your life?" (In one survey 55 percent said it made "a lot" and 13 percent said it made "much" difference⁷²); "Have your legal problems affected your

⁷² Wayne Moore, Making Self-Evaluation Part of Program Management, AARP 2 (2002).

health?” (Results have ranged between 17 and 51 percent⁷³); “How long did your problems persist before legal services addressed them?” (Many problems persist for years); “Did the legal services you received prevent other problems from occurring?” (Some problems, like domestic violence, trigger a host of others); “Did your situation change due to: a) the legal services received b) your own efforts or c) the matter resolving itself?” (This is to ensure a causal link between services and results); and “Did your problem get better, stay the same, or get worse?” Programs with deficient survey results can use the survey information to identify areas in need of improvement.

3. Have all program materials written for clients meet readability standards

Several websites can determine the reading level of material if it is cut and pasted into a web page⁷⁴. Some even identify words and phrases that are particularly problematic. Programs should process all materials through these websites to ensure a 5th grade reading level⁷⁵, and someone familiar with literacy issues should edit all materials. In my experience, conflict often occurs between a lawyer author and a non-lawyer editor because the lawyer seeks precision, which usually involves legal jargon, while the editor is trying to make the material understandable. If possible, lawyer authors should receive training in writing for low-literacy readers.

III. Measurements

⁷³ Jennifer Goldberg & Shawnielle Predeoux, Maryland Legal Aid Outcomes Survey, Maryland Legal Aid Bureau 4 (July 6, 2009); Pascoe Pleasence, Nigel Balmer, Alexy Buck, Aoife O’Grady, & Hazel Genn, *Civil Law Problems and Morbidity*, J.Epidemiol Community Health, Vol 58 552 (2004).

⁷⁴ There are several calculators in one at <https://sites.google.com/a/lawny.org/plain-language-library/>, <http://www.standards-schmandards.com/exhibits/rix/>, and http://www.online-utility.org/english/readability_test_and_improve.jsp.

⁷⁵ Between 40 and 44 million people in the United States have only rudimentary literacy skills and are unable to understand written materials that require a basic reading proficiency. National Work Group on Literacy and Health, *Communicating with Patients Who Have Limited Literacy Skills*, Journal of Family Practice 4 (Feb. 1998).

In order to achieve greater efficiency and effectiveness, one must be able to measure them. These measurements should meet certain criteria:

- Record the outcomes of cases, as this describes how clients are helped;
- Allow the comparison of programs, because it is difficult to measure efficiency and effectiveness in a vacuum. Unless one knows what is achievable, it is hard to convince staff that improvements are needed;
- Measure time rather than cost. It is difficult to compare costs, as they vary with the local cost of living, they are difficult to standardize (the costs reported by one program might not include all the expenses counted by another), and lower costs do not always equate with better efficiency (a program that receives free space has a lower cost per case, but is not necessarily more productive).
- Use current data to the extent possible to minimize the burden of gathering new information.

A. Proposed new measurements for casework

I recommend the table of measurements below for cases closed annually:

TABLE of MEASUREMENTS

Case Type	Outcomes	Closure code	Average time spent (billable hours)	Other
Landlord/tenant	Eviction prevented	Counsel & advice	1	
		Limited action	2-3	

		Settled w/o litigation	10	
		Settled w/ litigation	18	
		Uncontested court decision	4	
		Contested court decision	25	
		Administrative agency decision	20	
	More time to vacate obtained			
		Counsel & advice	1	40 days
		Limited action	2-3	40 days
		Settled w/o litigation	10	60 days
		Etc.		

Most legal services programs can generate this table using available case management software. It requires only five data fields for each closed case. All LSC grantees and most other legal services providers already collect three of these using standardized codes: case type, case closure code, and billable hours. Many programs collect the fourth field, case outcomes, for all closure codes except advice and limited action; however, the codes are not standardized. The fifth, "other", field is optional.

The measurements in this table satisfy the aforesaid four criteria: They include outcomes and time instead of costs. They allow the comparison of programs, and programs already collect most of this data, as discussed below.

1. Case types

This describes the type of legal problem or matter experienced by the client (e.g. child custody). LSC has created codes for the most common legal problems and matters, and most other funders use them as well. As mentioned above, 14 codes cover 74 percent of all cases handled by LSC grantees.⁷⁶

2. Case outcomes

Codes have been developed for legal services clients' common case outcomes, but unfortunately, these have not been standardized for all programs. Many programs use a set of codes developed by Legal Action of Wisconsin, an LSC grantee. Examples include the following: obtained bankruptcy protection; obtained or maintained custody of children; obtained a protective order for a victim of domestic violence; and assisted with, obtained, preserved, or increased SSI/SSD benefits/rights.

These codes have a few limitations. They don't capture unsuccessful outcomes. Also, they gather little information that could guide improvement. For example, in cases of negotiating more time for tenants to vacate their premises, it would be helpful to know how much time they received, so that others could learn from those who obtained the best results. The codes also don't capture

⁷⁶ See LSC Fact Book 2010 at 20-2, *supra* note 8.

the amount of economic benefits clients obtain, which demonstrates the program's effect on the economy of the low-income community⁷⁷.

Currently, programs that collect case outcomes don't do so for advice and limited action cases. Programs really do themselves a disservice by not collecting this information, as demonstrated in footnote 63.

Using a statistically valid sample of advice and limited action cases will allow outcomes to be compared among similar programs, without causing the burden required to collect outcomes for all of these cases. Law students could inexpensively make call-backs to clients to collect this information.

3. Case closure codes

These codes describe the services provided by advocates in closed cases⁷⁸. Most non-LSC funded programs use these codes or an earlier version.

4. Average time spent (billable hours) by an advocate to close a case

This is the same as the "billable hour" metric commonly used by attorneys in private practice. This does not include time used for leave, administration, case review meetings and trainings, and similar activities. LSC regulations currently require grantees to record this time for each case and be able to aggregate it using its case management systems⁷⁹. But grantees are not required to report this information to LSC.

5. Other

⁷⁷ However, many programs do collect this information.

⁷⁸ See text accompanying note 8, *supra*.

⁷⁹ 45 CFR 1635.3 Timekeeping requirements.

The “other” column can be used to collect information for certain case types to guide future improvements. As discussed above, this can include the economic benefit obtained by the client or more detail about outcomes, such as whether a client receives a spouse’s pension benefits as part of the divorce or the amount and percentage of rent reduction in a warranty of habitability case. This information can be used to evaluate whether some advocacy strategies are more useful than others. During on-site evaluations, funders could also determine why one program in a state has better outcomes than others in the same state and identify best practices. In addition to this closed-case data, programs should continue to collect the following information:

- Total number of attorneys, paralegals and other staff employed by the program
- The percentage of available, recruited volunteer attorneys who accept new cases each year
- Total number of appeals closed during the year

Programs should also collect new data to create Table I and to calculate the ratio of managers to non-manager advocates.

The above table of measurements should be collected for the program as a whole as well as separately for each office and unit within the program. This will help spot problems that only occur in a part of the program. The table can also be used by managers to monitor their staff.

B. Measuring advocacy other than casework

The above data allow the evaluation of a program’s casework, but not its other services, including community education, materials and website development, matters, coalition building, community economic development, and other community advocacy. However an approach

developed by LSC for its Delivery System Study (DSS) can evaluate these other services⁸⁸. The DSS used on-site attorney teams to measure the impact of such services, defining impact as the achievement of relatively permanent improvements or avoidance of relatively permanent deteriorations in the legal rights or basic living conditions of significant segments of the eligible population. Experienced, trained attorneys collected information about each activity using semi-structured interviews with appropriate advocates. A panel of experts reviewed this information and assigned a score to each completed activity. Each judge rated six sets of 25 randomly selected impact reports for a total of 395. Three or four judges reviewed each set, and all 11 judges reviewed 27 of the reports to test the reliability of the scores and provide a means of adjusting scores for differences in judges' rating behavior. Scores for each of the program's advocacy activities were added and divided by the total cost of the program.

I propose using the same method, except that programs prepare and submit their own advocacy descriptions on a standardized form to save costs. Also, new projects should not be evaluated until they are completed or reach maturity (if they are intended to be ongoing) so the evaluations are based on results and not potential⁸⁹. Existing LSC evaluation staff could do the scoring. The evaluation should expand to include what LSC refers to as "matters"⁹⁰, or matters could be scored separately. The scores are not intended to be precise, but sufficient to group programs into tiers where successful programs can be identified for learning purposes and programs with poor scores can be targeted for technical assistance and training. Evaluators should send each program

⁸⁸ Legal Services Corporation, *The Delivery Systems Study: A Policy Report to the Congress and the President of the United States* (June 1980).

⁸⁹ The DSS evaluated new, ongoing and completed projects.

⁹⁰ Matters include referrals to other agencies or sources of assistance; provision of legal education or self-help materials in lieu of further legal assistance; mediation/alternative dispute resolution services; and the provision of court-based services by means of self-help centers or a help desk/kiosk. LSC, *Matters Service Report Guidelines for Data Collection and Reporting* (October, 2002) at <http://grants.lsc.gov/sites/default/files/Grants/MattersDataCollection10-02.pdf>.

the comments that form the basis of the scores with suggestions on how to improve their activities. The evaluators may want to score websites separately, as this might provide additional useful information.

C. How to use proposed metrics

The measurements can be used to identify inefficiencies and ineffectiveness as follows:

- Compare total average billable hours spent on each case closure code with national averages. Investigate significant variations from the norm to identify opportunities for improvement or best practices. For example, if a program's advice cases average two hours, improvements are warranted.
- Compare average billable hours for each case closure code for most common case types. Some prepaid legal services providers use this method to monitor all their advocates located in offices throughout multiple states⁹¹. For example, if uncontested court decisions for temporary restraining orders average more than three or four hours, remedial action may be necessary. If an advocate or office bills more time than average for a particular case type and closure code, supervisors should investigate and can often discover inefficiencies this way. Managers can use this information to monitor cases on an ongoing basis and intervene if a case seems to be taking too much time.
- Compare outcomes and average billable hours for certain case types: For five of the 14 most common case types handled by legal aid programs, outcomes and average billable hours should be comparable for every closure code among advocates and offices within the same program and even among programs in the same state and nationwide. They include bankruptcy/debtor relief, Medicaid, federally subsidized housing, Food Stamps,

⁹¹ UAW Legal Services Plan at <http://www.uawls.com/>.

and SSI, all of which involve certain federal laws and procedures. Average billable hours should also be comparable for wills/estates nationwide. For example, the average time to close an SSI case should be comparable for all advocates regardless of closure code (e.g., one hour for advice, 20 hours for an agency decision). Two of the 14 case types, mortgage foreclosures and unemployment compensation cases, should be comparable within a program and among programs in the same state. Significant differences among advocates, offices, or programs should be investigated further, and the practices of top performing programs and advocates shared with others.

- Compare outcomes for different case closure codes: This is useful for spotting case types where outcomes are similar among case closure codes. For example, if the amount of time negotiated for tenants to vacate their premises is comparable for advice-only cases and negotiations, the program may want to handle more of these cases with less time-consuming advice. Also one can conduct experiments with unbundled law to determine if the outcomes are comparable to full representation and adopt the unbundled approach wherever possible. This is particularly helpful for comparing outcomes of uncontested court and limited action cases.
- Compare “other” data for different closure codes and case types. These cases can be reviewed as described immediately above.
- Compare annual billable hours: Another way of comparing programs, units, and advocates is to calculate the average number of annual billable hours per advocate. Programs should also calculate the corresponding average number of hours billed to closed cases for each closure code (i.e., three hours for a closed limited action case). Programs, units, or advocates with a higher annual average of billable hours per advocate

are likely to be more productive. This is not true if the additional time, in the form of more hours per closure code, is being devoted to routine services, such as counsel and advice, limited action, and uncontested court cases.

- Compare the ratio of FTE managers to FTE non-management advocates with national averages, as described above.
- Compare percentage of FTE non-advocate staff to total staff with national averages, as described above.
- Compare the percentage of key services cases with national averages, as described above.
- Calculate the percentage of cases closed with extended services for all pro bono cases; this requires generating the above table of measurements for pro bono cases. Calculate the percentage of recruited volunteer attorneys who accept new cases each year, as described above. These calculations will help programs maximize these percentages.
- Compare the average number of appeals and litigated cases per advocate with national averages.

IV. CONCLUSION

A. What programs can do

Programs can calculate the data shown in the above graphs from data in their 2009 LSC annual report to compare their performance with other programs. They can also calculate the total average billable hours devoted to advice, limited action, and uncontested court cases.

Finally, they can calculate the average annual billable hours per advocate.

1. Efficiency

Programs can use the graphs and other data discussed above to identify potential areas in need of improvement. They can then explore these areas using the appropriate questions below.

Outreach

- Do you have efficient methods for reaching clients with limited English proficiency and hard-to-serve clients?

Intake

- Do you match clients with the least expensive delivery system within the program that can address their problems (e.g., legal hotline, pro bono program)?
- Do you make referrals to other programs based on information that ensures they are successful? Do you measure the success?
- For each intake point within the program, what process do you use from the time the client first contacts the program until he or she is approved for services? How long does it take, from the time of initial contact with the program, for clients to learn whether they will be represented? Can this be shortened? Do the vast majority of clients, who receive advice-only or limited action, only interact with two staff? If not, can this be changed?
- Is intake centralized?
- Do you use case acceptance meetings?

Advice

- Do you resolve most cases requiring advice-only during the clients' first contact with your program? Do you handle most of these cases by telephone?
- Is technology available to help advocates quickly conduct conflict checks, record case notes, and generate follow-up letters to clients?

Limited action cases

- Does dedicated staff handle common, routine cases?
- Do they handle most of these cases entirely by phone?
- Do they use streamlined procedures and document generators to create all documents?
- Are cases monitored until conclusion?

Uncontested court cases

- Do you use unbundled services to resolve these cases, whenever possible?
- Do you use document generators for all documents?
- Do clients represent themselves at most court hearings?
- Are cases monitored until the court decision is made?

Staff attorneys and paralegals (advocates)

- Do attorneys and paralegals use document generators to prepare most documents?
- Do they use unbundled services whenever possible?

Supervision

- Do managers monitor the number of hours billed to cases on an ongoing basis and intervene when necessary?
- Do they monitor the age of cases, number of open cases, number of closed cases per month, and the percentage of key services?
- Do they use work plans?
- Do they periodically review best practices and quality control systems?

- Do they conduct statistically valid client satisfaction surveys?
- Do they ensure document generators and other technology are actually being used?
- Do they minimize the number of uncontested court cases that receive full representation?
- Do they ensure staff uses unbundled services whenever possible?
- Do they strive to create a paperless office?
- Do you use an efficient ratio of supervisors to non-supervisory advocates?
- Do you use an efficient percentage of staff other than attorneys and paralegals?

2. Effectiveness

Programs can use the above data in combination with the following questions to identify opportunities for improvement:

Outreach/Intake

- Do you have effective methods for reaching clients with limited English proficiency and hard-to-serve clients?
- Do you coordinate outreach with other program activities and objectives to achieve synergy?
- Do you conduct outreach at locations that primarily reach the same clients, or are they more diverse, including community events, festivals, churches, radio shows, public access TV, newspaper columns, etc?
- Is outreach proactive, targeted at underserved client communities, or is it reactive, based on requests from the community?
- Do you analyze your annual number of closed cases to determine how they are allocated geographically and by ethnicity, age, gender, and language? Do you compare these allocations to census data for the low-income population to determine if any local community or client group is underserved? If so, do you target outreach to these underserved client groups?
- Do you try to screen out cases requiring extended services when these services are not available? (See Section II.B.2.)

Advice

- Does advice generally produce expected, favorable outcomes for clients? When it does not, do you provide these cases with more services in the future?
- Do managers listen to a sample of telephone advice calls (with client consent) to determine if advocates give advice clearly and make sure clients understand it?
- Do advocates receive call management training?
- Are outcomes recorded for a statistically valid sample of advice and limited action cases?
- Do all materials given to clients meet readability standards?
- Do you use interpreters and translators for limited English speaking clients?

Limited action cases

- Do you monitor these cases to completion to ensure clients receive the expected outcomes?

Extended services cases

- Do advocates specialize?

- How many open cases do advocates have? How many are active? How do they control their caseloads?
- Are resources or expert staff available if staff advocates need help?
- Does staff receive the training they need? What training have they had recently?

Volunteer lawyers

- Do they handle extended services cases whenever possible?
- Do nearly all recruited volunteer attorneys accept at least one new case each year? If not, can this be corrected?
- Do you monitor the progress of their cases with periodic phone calls?

Supervision

- Do supervisors monitor each advocate's billable hours and average time spent on advice, limited action and uncontested court cases?
- Do they conduct statistically valid client satisfaction surveys?
- Do they evaluate staff annually and, if so, how is this done?
- Do they set goals regarding the quality of work done?
- Do they review all cases periodically? If so, how is this done and does it happen at least quarterly?
- Do they establish impact advocacy objectives, action steps, milestones, and measurements for all advocates?
- Do they compare outcomes with measurements for impact cases?
- Do they periodically review the quality of staff's significant casework, depositions, and agency and court hearings?
- Do you have a committee which oversees the quality and quantity of work done by the program?
- Is priority given to "right to counsel" cases, contested court cases and appeals?
- Are partnerships with other non-profits created to address client community problems? If so, are they formalized in writing? Have they created a strategic plan for creating change?

3. Follow-up

Inefficiencies identified by the data and confirmed through the answers to the questions can be corrected using some of the ideas in this paper or from other sources.

B. What funders can do

Funders tend to follow the lead of the Legal Services Corporation when it comes to performance criteria. LSC has established nine performance criteria for its grantees⁹². While they make occasional reference to efficiency, LSC needs to devote an entire, separate criterion to it. Each LSC criterion includes questions that help define its meaning, which is helpful for onsite evaluations because they provide a pool of questions for interviewing program staff. Above are some questions that could help define this new efficiency criterion.

While the LSC performance criteria reference effectiveness more often than efficiency, it should combine references into a separate criterion and expand it to include considerations raised by the above questions for effectiveness. These criteria will help change the current culture which does not give priority to efficiency and effectiveness.

LSC should also collect the measurements recommended in section III to better assess efficiency and effectiveness. This is particularly true of advocacy other than casework, which receives little attention now. However, the data in Sections I and II are adequate for identifying programs that should be evaluated first to determine if their performances can be improved, as well as those that appear to perform very well to learn the methods they use. The fact that these measurements can be improved doesn't mean that they can't be used, because measurements rarely provide definite proof that problems exist.

Measurements play an important role after an evaluation is completed to assess whether productivity and effectiveness have actually improved. At this time, LSC and other funders don't have good mechanisms for doing this. Evaluators can offer programs the suggested

⁹² LSC, Performance Criteria (March 2007) at http://www.legalaidnc.org/public/participate/legal_services_community/LSCPerformanceCriteriaReferencingABASstandards_2007edition.pdf

improvements outlined above, but funders don't have to be in the awkward position of imposing them as long as they insist that the measurements improve.

It is also critical that LSC support the concept of unbundled services and include it in its training programs, instructions and performance criteria. As discussed above, this has the potential to greatly expand existing services.

A few recommendations are so important that funders should consider raising them with programs. One is having each program establish a centralized, streamlined intake system. This is a common cause of inefficiency. Another is requiring the use of document generators, as the experience of prepaid providers suggests. Funders should also urge that volunteer lawyers be used more effectively by referring them more extended services cases. Also more existing volunteers should be used annually. Funders should ensure programs handle enough key services cases to avoid the claim they only provide Band-Aid services. And finally, the better performing programs should be evaluated and their methods shared.

C. Potential impact of improvements

One can estimate to what extent services can be expanded by determining the number of additional cases programs could handle if those below the sloping line in Graph 1 improved their performance to reach the line. This number is more than 218,000 or nearly 24 percent of the current total⁹³; the complexity of these new cases would be the same as existing ones. This would more than compensate for the 14 percent reduction in advocates for 2011 and 2012. If all

⁹³ One can calculate the total number of additional cases per advocate by: 1) using the formula $-4.1699x + 239$ to determine the total number of cases closed per advocate at the sloping line where x is the percentage of key services and 2) subtracting the current total number per advocate. For example, for one program the percentage is 27.4 and the current total number of closed cases per advocate is 66. The total at the sloping line is 125. Subtracting 66 from 125 yields 59. The total number of new cases can be determined by multiplying the total number of additional cases per advocate by the total number of advocates in the program. In this case it is 244 times 59 equaling 14,396 more cases.

programs used unbundled services to the extent possible, this increase would even be higher, since many programs above the sloping line do not use them.