



LEGAL SERVICES CORPORATION
OFFICE OF PROGRAM PERFORMANCE

REPORT
FROM THE
PROGRAM QUALITY VISIT
TO

TEXAS RIOGRANDE LEGAL AID, INC.
RECIPIENT NO. 744100

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TABLE OF CONTENTS

BACKGROUND ON THE VISIT	1
PROGRAM OVERVIEW	1
SUMMARY OF FINDINGS	2
DISCUSSION OF FINDINGS	4
<i>PERFORMANCE AREA ONE. Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.</i>	4
Criterion 1. Periodic comprehensive assessment and ongoing consideration of legal needs.	4
Criterion 2. Setting goals and objectives, developing strategies and allocation resources.	5
Criterion 3. Implementation.	6
Criterion 4. Evaluation and adjustment.	6
<i>PERFORMANCE AREA TWO. Effectiveness in engaging and serving the low-income population throughout the service area.</i>	7
Criterion 1. Dignity and sensitivity.	7
Criterion 2. Engagement with the low-income population.	9
Criterion 3. Access and utilization by the low-income population (Intake).	10
<i>PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area</i>	14
Criterion 1. Legal representation.	14
Criterion 2. Private attorney involvement.	20
Criteria 3. and 4. Other program services to and on behalf of the eligible client population.	23
<i>PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration</i>	23
Criterion 1. Board governance.	23
Criterion 2. Leadership.	25
Criterion 3. Overall management and administration.	26
Technology	27
Criterion 4. Financial administration.	29
Criterion 5. Human resources administration.	30
Criterion 6. Internal communication.	31
Criterion 7. General resource development and maintenance.	32
Criteria 8 and 9. Coherent and comprehensive delivery structure, and Participation in an integrated legal services delivery system.	32
NATIVE AMERICAN PROGRAM	33
MIGRANT FARMWORKER PROGRAM	33
<i>PERFORMANCE AREA ONE. Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.</i>	33
<i>PERFORMANCE AREA TWO. Effectiveness in engaging and serving the low-income population throughout the service area</i>	35
Criteria 1 and 2. Dignity and sensitivity and engagement with the farmworker population.	35

PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low income population in its service area.36
 Criterion 1. Legal representation.36
PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration.38

BACKGROUND ON THE VISIT

The Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a Program Quality Visit to Texas RioGrande Legal Aid (TRLA) from January 30-February 9, 2012. Team members included OPP Program Counsel Stephanie Edelstein (team leader), Tillie Lacayo, Cheryl Nolan, Glenn Rawdon, Evora Thomas, and Tim Watson; and LSC temporary employees Cesar Britos, Alex Gulotta, Andrew Scherer, and Cynthia Schneider.

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

The team reviewed documents provided by the program including: recent grant applications to LSC, technology and PAI plans, workforce analysis charts, case reports, and other service reports. The team also reviewed materials requested in advance of the visit, including documents relating to the program's intake, legal work, and case management policies and systems, advocates' writing samples, and the results of an online staff survey. While on site, the team visited eleven TRLA offices; Austin, Brownsville, Corpus Christi, Eagle Pass, Edinburg, El Paso, Harlingen, Laredo, Nashville TN, San Antonio, and Weslaco, as well as satellite offices in some of those communities. The team spoke with staff from Alpine, Del Rio, Sinton, and Victoria, by phone or in person at other offices. The team interviewed program leadership and administration, along with most attorneys, paralegals, and administrative and support staff. The team also met in person or by phone with the program's board chair and several board members, judges and other members of the state justice community, the Texas Access to Justice Commission (TAJF), representatives of non-LSC funded legal services and pro bono entities, and other community organizations.

PROGRAM OVERVIEW

Texas RioGrande Legal Aid receives the third highest level of LSC funding. In 2012, TRLA received \$11,315,674 in LSC funds to support its work in the Texas and Southern Migrant service areas, including \$9,692,860 in basic field funding, \$29,477 in Native American funding, and \$1,593,337 for migrant work. Migrant funding for 2012 included: Alabama (\$30,991), Arkansas (\$74,450), Kentucky (\$48,087), Louisiana (\$25,938), Mississippi (\$53,757), Tennessee (\$40,087), and Texas (\$1,308,370).

TRLA's overall funding for 2012 is approximately \$24.1 million, which in addition to the LSC funding described above, includes \$8.9 million in IOLTA funds and state appropriations administered by the Texas Access to Justice Foundation. TRLA's 2012 revenue is approximately \$4 million less than it was in 2011, with the most significant cuts coming from LSC (\$1.96 million) and IOLTA (almost \$2 million). LSC funding constitutes approximately 52% of TRLA's budget.

TRLA is one of three LSC recipients in Texas. It was created in 2002 through the merger of Texas Rural Legal Aid, a large rural program in the Rio Grande Valley, with four urban programs: Coastal Bend Legal Services (Corpus Christi), Bexar County Legal Aid (San Antonio); El Paso Legal Assistance Society, and Legal Aid of Central Texas (Austin). TRLA's 68-county basic field service area is the size of Colorado and includes Austin, San Antonio, and the Rio Grande Valley. The program's Native American unit serves the Kickapoo Tribe. The migrant farm worker unit serves migrants throughout the state of Texas as well as those in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee (through the unit known as Southern Migrant Legal Services and operated out of Nashville, Tennessee). According to the 2010 census, the TRLA Texas service area includes 7.5 million people, of whom slightly more than 52% are Hispanic/Latino. The poverty rate in the area is approximately 21% overall; for the Hispanic/Latino population, the poverty rate is approximately 28%, and for the non-Hispanic white population, it is approximately 9%.¹ In 2011, 68.9% of the program's clients were Latino/Hispanic, 18% were non-Hispanic white, 10.7% were African American, and .6% were Asian/Pacific Islander. The program closed 21,786 cases in 2011, fewer than the 23,129 cases closed in 2010 but consistent with cases closed in recent years (21,566 in 2009, 22,018 in 2008, and 21,634 in 2007).

At the time of the visit, TLRA had approximately 300 staff, including approximately 140 attorneys working out of 20 offices, plus an administrative office which shares space with the branch office in Weslaco. Many TRLA advocates are highly experienced and nationally recognized.

This Program Quality Visit was the first to TRLA since the merger. OCE conducted an on-site CMS/CSR visit in 2008. The Texas Access to Justice Foundation reviewed the quality and effectiveness of TLRA's delivery system in 2009.

SUMMARY OF FINDINGS

TRLA has a national reputation for high caliber legal work that frequently results in substantial benefits for individual clients as well as for the client community. It has a core of highly experienced staff, many of whom are national leaders in the legal services community. They are complemented by a new generation of advocates who bring enthusiasm and fresh ideas to the program's efforts. The executive director is an effective leader who is well-known throughout the service area, the state of Texas, and nationally as a visionary, guided by his passion for providing access to and securing civil justice for individuals and the client community at large. TRLA has successfully merged the policies and procedures of five separate and diverse programs into a unified system for operating a single, large regional law firm.

TRLA conducts a comprehensive assessment of the civil legal needs of the client community every five years. The program annually sets goals and objectives and develops strategies to achieve them based on available resources, and responds quickly and effectively to

¹ *Poverty Status in the Past 12 Months*, Table S1701, 2006-2010 American Community Survey 5-Year Estimates.

legal needs that emerge between assessments. While the program engaged in preliminary planning to address recent reductions in funding, it has not engaged in more comprehensive strategic planning.

TRLA is engaged and visible in the client community. Program offices are strategically located, and office hours and procedures are designed to promote access. Activities are conducted in a culturally and linguistically competent fashion. The primary access point for persons seeking assistance is a toll-free telephone line known as the Telephone Access to Justice Line (TAJ), which is supervised by attorneys and staffed primarily by law students. The TAJ is supplemented by telephone and in-person applications at branch offices, direct referrals from partner organizations, and outreach sites and clinics. Case acceptance guidelines are broad, and reflect the program's desire to serve all eligible applicants. However, as currently structured, the system actually limits access and services. The volume of calls to TRLA is extraordinarily high and its call-handling capacity is limited, so many callers do not get through. There is no system for steering callers to other information or resources, or for having TAJ or other intake staff provide advice and brief services. The requirement that all intakes be reviewed by a duty attorney can create additional delays. TRLA does not offer an on-line intake option. The TRLA website does not link to TexasLawHelp.org.

The practice area team approach to legal work reduces barriers among offices and encourages collaboration and mentoring, but it also presents some challenges. The frequency and effectiveness of casework and caseload supervision varies among teams, and advocates are not always certain who supervises their entire body of work, or who evaluates their overall performance. The program recently created four general counsel positions to supplement the litigation director positions. TRLA devotes substantial resources to supporting litigation. Supervisors use the custom case management system known as the Case Tracking System (CTS) to review legal work and to see that office protocols are being followed. TRLA's overall case closure data is somewhat below national norms, which may be due in part to bottlenecks in the intake and case acceptance and assignment systems. TRLA's dedication of resources to support complex litigation may also contribute to the comparatively lower case numbers.

TRLA demonstrates an ongoing commitment to effectively integrating private attorneys into its work, and to providing them with support and recognition for their service. The program's strong relationships with other legal and social service providers in the service area have resulted in creative collaborations to serve the client community.

The board of directors exercises its fiduciary and oversight responsibilities effectively and efficiently, and receives appropriate training and support. The program has engaged in preliminary planning to address recent reductions in funding, although the board has not adopted a formal strategic plan.

Program leaders have substantial experience in organizational administration and/or management, and they have each been affiliated with TRLA for many years. TRLA has not adopted a leadership succession plan, although a deputy director was recently appointed. The management structure separates some administrative responsibilities from legal work

management and oversight in a way that may not always be most effective. In addition, the procedures used to fill management positions are not always clear.

TRLA utilizes effective systems for resource development and has diversified funding sources. It employs a development director and a grant writer, and has a written development plan. The communications director uses traditional and social media to feature program news and accomplishments in part to promote contributions.

TRLA has adequate information technology staff and a solid technology infrastructure to support its work, although there are some areas where modernizations to the technology would be appropriate when resources permit. The program does not have a detailed technology plan tied to a technology budget.

TRLA provides effective representation to the Kickapoo tribe, given the limited resources available.

TRLA has a longstanding national reputation for high quality legal representation of migrant farm workers. It operates migrant farm worker programs in Texas (Migrant-TX for purposes of this report), and in six southern states under the umbrella of the Southern Migrant Legal Services (SMLS). In Texas, migrant farm worker advocates are located in branch offices throughout the program; SMLS advocates are based in Nashville, Tennessee. The legal needs of migrant farm workers were assessed in 2010. The farm worker team is comprised of many highly skilled advocates, including some with more than 30 years of experience in this area of law. Supervision and management of legal work has been more structured in SMLS than in Migrant-TX, but the new farm worker team manager has plans for creating more consistent practices. TRLA leverages LSC's resources in the six states served by SMLS by providing significant administrative support to the operations of the Nashville office.

DISCUSSION OF FINDINGS

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

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

Finding 1: TRLA conducts a comprehensive assessment of the civil legal needs of the client community every five years. The most recent assessment included input from all segments of the client community and persons serving the client community, as well as program staff and members of the board.

In 2010, TRLA conducted a comprehensive study of the critical legal needs of its client community. This assessment consisted of an electronic questionnaire distributed to TRLA board members and staff, the private bar, community organizations, and government agencies. A paper survey was also made available to these individuals. Clients were surveyed during the intake process over the course of a two week period. Outreach coordinators surveyed residents of

colonias.² Each TRLA office held meetings with client and community organizations to solicit their opinions of legal needs facing the community. Offices prepared reports summarizing the results of these activities.

TRLA also reviewed recent demographic data and considered a variety of factors including: resources available to TRLA; availability of other resources to low income people; importance of the particular legal problem to the client community; susceptibility of the legal problem to a solution through the legal process; whether the efforts of TRLA will complement other efforts to solve the particular problem; and, whether legal efforts will result in the effective and efficient delivery of legal services.

Criterion 2. Setting goals and objectives, developing strategies and allocation resources.

Finding 2: TRLA annually sets goals and objectives and develops strategies to achieve them based on available resources, and regularly assesses its delivery strategies and work.

TRLA has taken a broad and expansive view of priorities and case acceptance guidelines. The program seeks to provide some level of service to all applicants who are determined to be eligible. As a result, the program's priorities are broad, and program-wide. They include legal representation in the following areas: support for families' integrity, security and well-being; improving outcomes for children; preservation of the home (permanent and temporary) and the community; safety, stability and health for individuals, families and their communities; protection and preservation of fundamental freedoms; maintaining and enhancing economic stability, security and justice, especially fair opportunities for employment; populations with special vulnerabilities; community and economic development; delivery of legal services.

TRLA priorities also include advice and referral, client community education, pro se clinics, permissible administrative advocacy, and assistance in certain emergencies. The program also implements its priorities by encouraging and supporting creative advocacy and cross-program collaboration through its team system.

After considering the results of the 2010 legal needs assessment, the board of directors determined that the existing priorities were appropriate and should be retained.

Program resources appear to be reasonably allocated to meet priorities. Staff are aware of the priorities and adhere to them.

² *Colonias* are unincorporated settlements of substandard housing, located primarily along the Texas-Mexico border, where residents have purchased small plots of land that lack basic services such as drinking water, sewage treatment, and paved roads. See, <https://www.oag.state.tx.us/consumer/border/colonias.html>.

Recommendation:³

I.2.2.1. TRLA should carefully examine the breadth of its priorities and its goal of providing some level of service to all eligible applicants in light of recent and anticipated funding reductions.

Criterion 3. Implementation.

Finding 3: TRLA responds quickly and effectively to legal needs that emerge between assessments.

TRLA uses its team structure to identify emerging issues program-wide. One responsibility of the team manager is to identify emerging issues program-wide, and to inform the TAJ and other intake staff of facts that might connect to those issues.

For example, TRLA adjusted rapidly and effectively to addressing the myriad legal issues presented in the aftermath of Hurricanes Katrina and Rita and more recently, Hurricane Ike. And in 2008-9, the program devoted significant resources to the representation of Fundamentalist Church of the Latter Day Saints (FLDS) mothers in their custody battles with the state.

Criterion 4. Evaluation and adjustment.

Finding 4: TRLA routinely collects information on the effectiveness of its work, especially in achieving articulated objectives and desired results, and uses the results to make changes and leverage additional resources.

TRLA is required to report outcomes data annually to the Texas Access to Justice Foundation (TAJF, the IOLTA funder). The program maintains data in its Case Tracking System (CTS) on specific benefits achieved for clients, including retroactive awards and lump sum benefits. In 2010, TRLA obtained \$7.5 million in back awards or settlements for clients, and its legal representation resulted in \$5 million in savings to clients. TRLA also collects data on the benefits obtained from direct legal representation to client groups, and on the types of groups represented. In 2010, TRLA represented 178 groups, including organizations focused on domestic violence victims' rights, workers' rights, *colonia* residents' rights, and provision of social services to low-income persons. For example, TRLA represented one group of *colonia* residents in obtaining basic water and sewer services for their community.

³ Recommendations in this report will be identified by a Roman Numeral cross-referenced to the Performance Area, followed by three numbers identifying, respectively, the Criterion addressed by the recommendation, the number of the finding, and a number designating whether it is the first, second, third, etc., recommendation under that finding. For example, III.2.14.3 designates Performance Area III, Criterion 2, Finding 14, third recommendation under finding 14. There are two tiers (levels) of recommendations in this report. Recommendations marked with an asterisk are Tier One Recommendations and are intended to have a direct and major impact on program quality and/or program performance. **In your next grant renewal application or competitive grant application, instead of submitting a full narrative, your program will be required to report what it has done in response to Tier One Recommendations.**

The data collected has also been used to leverage additional resources and to garner community support for less traditional services. For example, TRLA was able to demonstrate that its advocacy on behalf of clients served through the Medical Legal Assistance for Families (MLAF) partnership with the Brownsville Community Health Center resulted in \$75,000 in reimbursements to that center. This information was instrumental in overcoming resistance to MLAF by doctors wary of having lawyers on site due to fears about malpractice litigation.

TRLA staff also assess the effectiveness of the program's delivery strategies by discussing case trends and developments at practice team meetings.

Finding 5: TRLA has engaged in preliminary planning to address recent reductions in funding, although the board has not adopted a formal strategic plan.

The executive director and director of development keep the board informed of funding challenges, including developments in IOLTA, LSC, state appropriations, and other funding. Board members have been involved in efforts to preserve state funding. The executive and finance committees have had fruitful discussions with the executive director about how funding challenges should be addressed, and the board and program leadership expect to take more proactive steps by June 2012, when they hope to have a better sense of 2013 LSC funding. At the time of the visit, the preliminary plan was to reduce staff size through attrition while maintaining a critical mass in each office.

TRLA has adopted a succinct mission statement whose purpose is primarily internal. It has not adopted a broader and more public mission or vision statement that would articulate for staff, for the board and for outside stakeholders (including funders), the values that inform its work or the goals it hopes to achieve through its efforts. While these values and goals might appear to be obvious to those who have long engaged in legal services advocacy, a broader mission or vision statement can still provide staff with direction and inspiration, and can provide potential board members, funders, and other stakeholders with an understanding of why they should work with or support the program.

Recommendation:

I.1.5.1. TRLA should undertake a strategic planning process involving the board, staff, and other stakeholders within the legal services community. This process should include a review of the program's statement of mission and the development of a vision statement, and should include dialogue about how to preserve the culture and vision of the program in the future. The process should also include an examination of the most efficient utilization of resources to serve clients in light of recent and projected funding losses, changes in laws, and ongoing or emerging client needs.*

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

Criterion 1. Dignity and sensitivity.

Finding 6: TRLA offices are strategically located throughout the vast service area, and office hours and procedures are designed to promote access.

TRLA offices are located in areas that are accessible to the low income community, either near public transportation where that is available, or in larger population centers near major roads, courts, and other services. Buildings are accessible to persons with physical challenges, and accommodations are made to provide access within the building when needed.

Offices and off-site clinics and other spaces are professional in appearance, well-maintained, clearly identified, and welcoming to clients. Staff offices are professional and well-equipped. The El Paso office has served as a venue for local art exhibits, which not only improves the appearance of the office at no cost to the program, but draws in members of the community – including potential donors, who might not otherwise be aware of the program’s work.

Office hours and procedures are reasonably calculated to promote access and utilization by the client community, including populations with traditional access difficulties. Staff reported that they try to accommodate applicants with special needs with after-hours appointments, off-site clinics, and visits to hospitals and shelters.

Finding 7: TRLA’s telephone and in-person activities are conducted in a culturally and linguistically competent fashion, although its written policy for serving persons with Limited English Proficiency lacks some of the elements recommended by LSC in Program Letter 04-2, *Services to Eligible Individuals with Limited English Proficiency*.

TRLA’s efforts to promote access by non-English speakers and those with limited English proficiency are strong. The predominant language spoken in the service area other than English is Spanish; there are also smaller pockets of individuals who speak Vietnamese, Russian, and Mandarin Chinese. A notable number of TRLA staff are bilingual in English and Spanish, and attorneys seeking to learn Spanish receive financial assistance for participating in immersion programs.

The telephone intake system includes a Spanish language option, and the Telephone Access to Justice (TAJ) staff include Mandarin, French, and Creole speakers. Language Line is used for telephone interpretation and local interpreters are used for in-person assistance when needed. TRLA also contracts with a sign language interpreter service when needed to serve deaf and hard of hearing clients. In reception areas, informational brochures are available in both English and Spanish, the most common languages of the community.

TRLA has a written LEP policy and has prepared some additional guidelines for staff, but these documents do not address all the recommended elements of an LEP plan contained in LSC Program Letter 04-2, *Services to Eligible Individuals with Limited English Proficiency*.⁴ For example, these documents do not address the scope of language services to be provided;

⁴ Program Letter 04-2 and accompanying Guidance is available at www.grants.lsc.gov/rin/grantee-guidance/program-letters/current-program-letters.

workload adjustments for staff providing services to LEP clients; training including general staff training on language access issues and specific training on language and ethical issues for staff who serve as interpreters; and systems for review and modification of language access services.

Recommendation:

II.1.7.1.* *TRLA should revise its LEP policy in accordance with LSC Program Letter 04-2, Services to Eligible Individuals with Limited English Proficiency, and the accompanying Guidance. The program may wish to refer to recently developed or updated LEP policies posted on the LSC Resource Information website located at www.lri.lsc.gov.*

Finding 8: TRLA has not put its website to full use as a resource for the client community.

The TRLA website provides information about program contacts, operating hours, and general services. It also includes a staff-only portal, a link to TRLA news stories, and a link for prospective volunteer attorneys and those wishing to make a donation to the program. It does not, however, operate as a resource for the client community. It is available only in English.

The website does not include legal information or assistance to *pro se* litigants, and has no links to other resources such as TexasLawHelp.org, the statewide website where such information could be obtained. TRLA participates in TexasLawHelp.org by providing content on substantive legal issues.

Recommendations:

II.1.8.1.* *TRLA should reconsider its vision for its website, including whether the website is intended to function primarily as a tool for staff, or whether it should be a more effective resource for the client community, the private bar, and the public generally. At the very least, the website should contain appropriate content in Spanish as well as English, and should link prominently to TexasLawHelp.org, which includes resources in Spanish and Vietnamese.*

Criterion 2. Engagement with the low-income population.

Finding 9: TRLA is engaged and visible in the client community.

TRLA staff participate in a variety of outreach activities designed to provide the client community with legal information and resources, and to inform them of TRLA's services. The program is also well-known to and respected by the leaders and staff of organizations providing services to the low-income community in the service area and across the state.

Staff conduct outreach and educational programs at local fair housing councils, senior centers, independent living centers, homeless coalitions, the Family Justice Center, Safe Place, and many other domestic violence and sexual assault advocacy organizations throughout the service area. In addition, TRLA accepts referrals of eligible clients from those organizations.

The network of service providers in the region makes an effort to collaborate so that clients do not experience multiple referrals before they reach the provider that will ultimately

serve them. Of particular note are the medical-legal partnerships in Brownsville, El Paso, and San Antonio, where TRLA maintains an office in a clinic or hospital and accepts referrals from medical staff. Another excellent collaboration permits domestic violence shelter staff to screen shelter clients for eligibility for TRLA services using direct access to a segregated section of TRLA's case management system. Other examples of collaborations with community partners are seen in the evening intake clinics conducted with volunteer lawyers and TRLA's work with various homeless and mental health coalitions.

Criterion 3. Access and utilization by the low-income population (Intake).

Finding 10: Despite its various access options including creative collaborations with other organizations, the TRLA intake structure precludes the program from reaching its full potential for serving the low-income community.

TRLA's primary access point for persons seeking assistance is the toll-free telephone line known as the Telephone Access to Justice line (TAJ), which is supervised by attorneys and staffed primarily by law students. The TAJ is supplemented by telephone and in-person applications at branch offices, direct referrals from partner organizations, and in-person intake at outreach sites and clinics.

Telephone Access to Justice (TAJ)

The Telephone Access to Justice (TAJ) is supervised and managed by a director and an administrator in the San Antonio office, a director and an administrator in the Austin office, and a team manager in the Corpus Christi office. The TAJ directors and the team manager are attorneys. The majority of intake duties at the TAJ are performed by a cadre of second and third-year law students known as TAJ associates, most of whom work part-time. The TAJ team also includes some law graduates waiting for bar results.

The volume of calls to TAJ is extraordinarily high. TRLA recently upgraded to a CISCO desktop call management program that can report statistics such as incoming volume of calls and wait times. At the time of the OPP visit, this software was not yet fully functional and the program was not able to readily run reports on call data statistics for the team to review. TRLA staff provided the visit team with data collected over two separate months in 2006-7. That data show 12,711 calls entering the system in one month; in another month, there were 14,845 calls. Many of these calls were repeats, and approximately 90% of incoming calls were missed. While this data is not recent, according to intake staff it accurately reflects the extraordinarily high volume of calls that continue to come into the program. Data provided to LSC after the visit indicates that TRLA conducted 30,027 intakes in 2011.

Unlike some programs that use an open unlimited queue system that answers all calls and allows all callers to hold, the technology currently used by TRLA for the TAJ limits the number of calls that can be accepted into the phone queue. The technology also limits the number of staff able to handle calls. As a result, phone lines are busy and many callers do not get through, or they get through only after many attempts. Staff reported during the visit that it could take up to three days for an applicant to get through the phone lines and speak to an intake staff person. A

receptionist was overheard by the LSC team telling a caller that he/she should keep calling and that it might be five hours before he/she could get through. Some partner organizations reported incidences of people whom they had referred to TRLA, trying for days to get through the TAJ system. The system can be particularly frustrating for people without a land line or for those with limited cell phone minutes.

Callers who do get through to the TAJ phone lines (*i.e.*, do not just get a busy signal) hear a recording that explains the TRLA eligibility criteria and intake process. This recording does not provide callers with case acceptance information that could help them to assess whether the program will be able to assist them, and does not include other options for obtaining information or services.

Staffing an intake line such as the TAJ with law students expands program resources and builds a foundation for the future by instilling in the students a sense of public service. However, the current system at TRLA is not as efficient as it could be. The number of law students varies by office (San Antonio or Corpus Christi) and time of year; the spring 2012 Austin schedule shows four to seven students plus two TRLA staff. While the law students may work year-round, they are less available during exam periods and other fluctuations in the school year, limiting the program's capacity to handle the volume of incoming calls during those times. At the time of the visit there were no arrangements in place to fill those gaps.⁵ In addition, the system does not make the most effective use of the law students' skills, as the students' function is to screen callers for program eligibility and gather information and documents about the applicant's legal problem(s). Law students do not provide legal advice.

Non-TAJ access points for persons seeking assistance

In addition to the TAJ, TRLA accepts applications by telephone and sometimes in person at branch offices, as well as through partnerships with domestic violence shelters and health clinics, and at outreach sites and legal clinics. Some specialized units handle their own intake. As discussed in Finding 9, above, two innovative intake models include referrals from medical staff participating in medical-legal partnerships, and permitting domestic violence shelter staff to screen shelter clients for eligibility for TRLA services using direct access to a segregated section of TRLA's case management system. TRLA has also used an alternative phone line to supplement its standard system during FEMA-declared declared disasters.

Branch offices have varying schedules and protocols for callers and walk-in applicants. In all offices, applicants who apply with an emergency as defined by the case acceptance guidelines are screened for conflicts and eligibility by a receptionist or other intake staff and interviewed the same day by a duty attorney in the office. Some offices also follow this procedure for walk-in applicants who do not have an emergency, if staffing permits. Other offices refer persons who do not have emergencies directly to the TAJ. At least one office accepts a limited daily number of telephone intake calls from people who have tried unsuccessfully to get through to the TAJ.

⁵ TRLA's response to the Draft Report notes that the Austin and San Antonio TAJ offices usually have 20-30 students working from 12-50 hours per week depending on their academic schedules. *Response*, at 8.

Telephone intake lines at branch offices can sometimes be as difficult to enter as those of the TAJ. In at least one office, at the end of the telephone recording, the line automatically hangs up so callers are unable to leave a voice message. Also, in at least one office those callers who do get through may have a long wait to speak to an intake worker.

Post-screening procedures

Intake information is entered directly into the CTS. If the applicant qualifies for services, the intake worker sends the case electronically to a “duty attorney” of the day for the appropriate team or practice area. The number of duty attorneys depends upon the size of the practice team. Some teams have duty attorneys in more than one office. Each team has at least one duty attorney available on any given day. The duty attorney reviews the application and intake notes, assesses any attached documents, consults with the intake worker (or on occasion the client) as necessary, and makes a preliminary determination of the level of services to be provided, as well as by whom. If the duty attorney decides that the case meets the practice team's priorities for extended services as described in the team's case acceptance guidelines, discussed in Finding 11, below, s/he will seek out a team member (preferably in the office nearest the client) and attempt to place the case. Some teams (or local office subsets of teams) hold weekly case acceptance meetings to distribute cases. Some teams do not hold case acceptance meetings, instead relying exclusively on the duty attorney to place cases. The duty attorney may also decide to keep the case. Case assignments appear to be voluntary and attorneys are free not to accept a case. If the duty attorney is unable to place the case for extended services, s/he sends an advice letter to the client explaining that fact and including a description of the program's grievance procedures. This review process, known as the “disposition review,” can take anywhere from one or two days to two or three weeks.

TRLA has written procedures for opening new files and entering data into the CTS. The Intake Manual addresses eligibility, issue spotting, level of service, and other procedures. The CTS has modules of scripts for screening questions.

The CTS also includes templates for advice letters, which can be adapted to suit an individual's particular circumstances. While some teams have systems for ensuring that the advice in those letters is current, those used in some practice areas were reported to be out-of-date.

TRLA does not obtain clients' feedback to its intake services, nor does it survey staff and clients on intake-related matters.

Recommendations:⁶

II.3.10.1.* *TRLA should consider supplementing its intake system with online intake as a way to alleviate the high volume of calls to TAJ and reduce long waits by providing another access*

⁶ LSC's Intake Focus Group is available for technical assistance with improving the intake system.

point for potential clients. Online intake could be used to obtain information regarding eligibility and legal problem, and to direct applicants to legal information and community referrals.

II.3.10.2. TRLA should provide callers to TAJ with recorded information about TRLA eligibility and services, and direct them to the website where they could find additional information, links to resources, and an opportunity to apply online, when that option is made available.*

II.3.10.3. TRLA should consider upgrading the VoIP call system to include an automatic callback (IVR) feature, as well as more advanced queuing to direct calls by area of law as selected by callers. Advanced queuing features can provide callers who are not eligible for services, or those whose cases would not be accepted, with helpful information while they are in the queue.*

II.3.10.4 TRLA is urged to expand the capacity of TAJ by using support staff and paralegals from other branch offices as needed to handle calls when law students and other TAJ workers are unavailable or during times of unusual spikes or increased volume. The VoIP features of the TAJ phone system can be used effectively for this purpose.⁷*

II.3.10.5. Support staff who conduct intake screening should receive on-going training on uniform screening procedures.*

II.3.10.6. TRLA is encouraged to implement procedures for obtaining client feedback on intake services.

Finding 11: TRLA’s broad case acceptance guidelines for most practice areas contribute to the intake gridlock because they generally do not provide guidance on the scope of services to be provided in particular kinds of cases, including when limited services would be appropriate.⁸

TRLA’s advocacy is structured around the work of 47 teams in 44 distinct practice areas. Those practice areas are in turn organized into larger primary groups: economic and social justice, family law, individual rights, labor, public benefits, and housing. Case acceptance guidelines are developed annually by individual teams, then reviewed by the group coordinator. The family law group is an exception; case acceptance guidelines are developed by the group as a whole. While the case acceptance guidelines attempt to narrow the range of cases falling within the practice area, many include broad exceptions. In addition, few groups’ guidelines discuss the kinds of cases that are appropriate for less than extended services. Again, the family law group’s

⁷ TRLA’s response to the Draft Report explains that support staff and paralegals have taken intake calls on VoIP lines in the past in order to augment the law students, but that this was not occurring at the time of the OPP visit because “there needed to be a pause in intake while caseloads were being brought under control by casehandlers.” *Response*, at 8.

⁸ TRLA’s response to the Draft Report posits that low volume practice areas may not need guidelines that delineate different levels of service, and clarifies that the family law group’s guidelines include diversion of routine cases to clinics and assisted pro se programs when appropriate. *Response* at 9-10.

guidelines appear to be an exception; they include levels of service and protocols for diverting cases when appropriate, without sending them through the disposition process.

As a result, intake staff and duty attorneys have little guidance on specific case handling decisions and determinations on the scope of services to be provided. Detailed case acceptance guidelines would help control volume and expedite the intake process.

The program wants to provide at least some level of service to all applicants who qualify for assistance. However, with current resources, it simply is not possible to provide this level of service to the high number of people who qualify for assistance. Whether intentionally or not, the program has stemmed the tide of new cases by creating a virtual intake funnel through which only a few new applicants will pass. This has resulted in what is essentially an “all or nothing” system: those who do get through the intake and case acceptance process receive individualized information or high quality legal assistance; those who do not get through are left without even general information that might otherwise help them.

Recommendations:

II.3.11.1. TRLA should refine its case acceptance guidelines in all practice areas consistent with its goals and objectives, in order to allocate resources to the most critical needs and to permit the determination, as early in the intake process as possible, of whether a case will be accepted, and the level of representation that will be provided. Some matters could be screened out at the initial contact with information only, thereby conserving valuable resources for intake screening and the provision of legal advice and brief services where appropriate. Refined case acceptance protocols could also control the volume and types of cases referred to the duty attorneys.*

II.3.11.2. TRLA should incorporate advice-only cases into the TAJ where it is appropriate to do so, either by adding attorney staff to TAJ or by allowing law students to provide advice and brief services under the direct supervision of an attorney and after receiving training. This would free the duty attorney to focus on more complex intake assessments and ongoing cases, and would allow all advocates to focus more on extended cases.*

II.3.11.3. TRLA is encouraged to make its case acceptance guidelines known to the community by posting them on its website or otherwise making them available.

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

Criterion 1. Legal representation.

Finding 12: TRLA has the capacity to perform high quality effective advocacy on behalf of clients insofar as its resources permit.

TRLA has built its strong reputation around a group of highly experienced staff, many of whom are national leaders in the legal services community. The 2011 staffing report provided by the program to LSC shows that in 2011, 13 employees had 40 years or more in the profession;

another 38 employees had 30 years or more; another 61 employees had 20 years or more; and approximately 80 other employees had 10 years or more. Attorneys average more than 15 years of experience. Experienced attorneys are complemented by a new generation of advocates who bring enthusiasm and fresh ideas to the program's efforts.

Program lawyers are well-informed about clients' legal problems and possess the requisite skills to address them. They strive for results that are compatible with the client's individual goals as well as program priorities. Advocates maintain an active court practice, and they employ written discovery, motions accompanied by written memoranda, and appeals. A significant number of advocates also engage in litigation that is extensive and time-intensive, resulting in substantial and lasting benefits for the state's poverty population. TRLA's vigorous and successful advocacy is reflected in the number of TRLA cases on appeal, and the innovative and complex cases the program has pending in state and federal court. However, writing samples provided to LSC varied greatly in quality and complexity. Many exhibited top-notch advocacy, while others, including some from attorneys with several years of experience, were more pro forma.⁹

Advocates are given high marks by judges, private lawyers, and other providers familiar with the program's work. Judges indicate that they refer cases to TRLA with confidence and that the attorneys are professional, reliable, well-prepared and courteous to both the courts and their clients.

Recommendation:

III.1.12.1. TRLA is encouraged to establish protocols for ensuring that its written work product is uniformly of the highest possible quality.

Finding 13: TRLA has systems in place to support its culture of high quality advocacy, and continues to explore new mechanisms for retaining and continuing this culture into the future.

TRLA's practice area team approach to legal work was designed in part to break down barriers among offices following the mergers, and it has been successful. Each advocate chooses a primary practice area team, but may also join other teams. As members of program-wide teams, advocates look beyond the boundaries of their individual offices for professional support and collaboration in their areas of practice. The team structure also provides inexperienced advocates with direct contact with substantive specialists across the program.

Each team has a team manager who coordinates and supervises the legal work of individual members and the teams as a whole, primarily via the CTS. Larger teams may have more than one manager. Teams are clustered by related practice area into seven groups, under the supervision of a group coordinator. Most teams conduct telephonic case review meetings on a periodic basis -- in some instances, monthly. Some branch managers also conduct weekly case

⁹ TRLA's response to the Draft Report explains that some lawyers are engaged in practice areas that rely heavily on routine pleadings and form documents. *Response* at 11.

review meetings to evaluate and assign new cases that come into their office and to review the status of all cases handled by staff in their office.

Staff report consistent use of the CTS for calendaring cases and other professional obligations.

All cases handled by paralegals are closed in the CTS by attorney supervisors. Team managers and other supervisors, including group coordinators and branch managers, use the CTS to review legal work as well as to ensure that program and office protocols are being followed, *e.g.*, that cases are within priorities, that case activity is sufficiently documented, and that caseloads are appropriate. They also may make adjustments accordingly. For example, the family law team developed practice protocols when it became apparent that the use of discovery in family law cases varied considerably by office and advocate.

In addition to legal work supervision, team managers are expected to identify emerging issues, and they alert intake staff to fact patterns associated with those issues. At the time of the visit the housing team was concerned about a Section 8 landlord who had engaged in egregious behavior that had not been addressed by the local housing authority. Intake staff had been asked to identify applicants who may have been affected.

While most advocates spoke positively of the practice team structure and of the opportunities it presents, the system is not without challenges. The process by which team managers are selected is not always made clear to staff. This lack of transparency has caused tension in the program. Managers throughout the program, including team managers, would benefit from management skills training. The frequency and effectiveness of casework and caseload supervision varies among teams, and because many advocates are on more than one team, they are not always certain who supervises their entire body of work, or who evaluates their overall performance. In addition, some advocates appear to have made commitments to too many teams. Some advocates expressed a desire for more oversight on caseload size from supervisors. There are no program-wide legal work management protocols, but written guidance that does exist makes reference to the *ABA Standards for the Provision of Civil Legal Aid*.

Both the director of litigation and deputy director of litigation are responsible for supervising and coordinating significant litigation, mentoring practice area group coordinators and team managers, approving and coordinating advocate training, and serving as liaison between advocates and the executive director on significant litigation issues. While these positions are filled by highly dedicated and experienced attorneys, they also have commitments to their own cases and to their team management responsibilities. At the time of the visit, the director of litigation had been on leave for several months handling outside litigation. As a result, these positions are not fulfilling their envisioned potential.

Program management is aware of the need to reinvigorate its litigation capacities, and recently created four general counsel positions to supplement the litigation director positions. The individuals named to the general counsel positions are among the program's most experienced litigators. At the time of the visit their responsibilities were still evolving, but the expressed goal is for the general counsels to: (1) develop significant litigation; (2) mentor newer

attorneys; and (3) work to increase revenue through attorney fee awards. There is an assumption that the general counsels will also review significant litigation and approve cases for appeal, although the executive director will continue to be involved in these decisions and have final approval. The position of the general counsels in relation to the director and deputy director of litigation, and in the hierarchy of case supervision, had not been fully determined at the time of the visit, but it appears that they will mentor, advise, and co-counsel with program attorneys, but will not evaluate or supervise them in the traditional sense. Whether the scope of the general counsel positions would be geographic or determined by practice area was likewise undetermined at the time of the visit.

Overall, advocate caseloads appear to be of reasonable size, taking into account variations in the type of work performed. Attorneys providing routine services close as many as 150 cases per year, while attorneys involved in extensive litigation handle considerably fewer cases. Several attorneys litigate “mass actions” in which multiple clients – in one case as many as 93 – are named plaintiffs in a single action. While caseload variations may legitimately stem from practice area differences or other assigned responsibilities, some staff voiced a concern that not all advocates are “pulling their weight.”

TRLA devotes substantial resources to supporting litigation. Advocates have access to program-wide, substantive information and litigation assistance, and to research tools, including Lexis. The program maintains a law library of secondary and specialty resources including professional journals as well as manuals and newsletters from national support organizations including National Consumer Law Center (NCLC), National Housing Law Project (NHLP), National Senior Citizens Law Center (NSCLC) and National Organization of Social Security Claimants Representatives (NOSSCR). Advocates participate in statewide and national listservs, state bar committees, and statewide poverty law task forces. They also use email to share knowledge and resources with colleagues around the program, and have access to pleadings on the CTS and the internal shared drive of the networked computer system. Examples of TRLA’s strong support for advocacy include the purchase of software to help organize hundreds of pages of documents obtained through discovery in one case, and the coverage of travel expenses for multiple out-of-state trips by an attorney working on a civil rights claim. Some advocates remarked that there is at least a perception of imbalance in the provision of support for litigation. Some staff also observed that pleadings and other materials maintained in the CTS could be better indexed and organized.

Attorneys report relatively robust training and substantive skills development opportunities, including initial orientation, periodic internal trainings, participation in team case reviews, participation in statewide task forces and attendance at external conferences and trainings including the annual statewide Poverty Law Conference. Each attorney has an annual training expense allocation of \$1,000, which can be used in a single year or over the course of two years. Paralegals and secretaries involved in substantive work have far fewer educational opportunities than attorneys; they do not have an individual training allotment.

Supervisors regularly use the CTS to review legal work as well as to see that office protocols are being followed, *e.g.*, that the cases are within program priorities, that case activity is sufficiently documented, and that caseloads are appropriate. Formal evaluations occur

sporadically and their timing and substance depends on the supervisor. Most managers have not been evaluated in recent history.

TRLA does not use client satisfaction questionnaires. At the close of extended cases, clients receive letters advising them to notify the program if they are not satisfied with the services rendered. Staff members often conduct an exit interview with the client at the close of a significant case.

Recommendations:

III.1.13.1. *TRLA is urged to review the number of teams that an advocate can join and to consider whether that number should be limited and under what circumstances.*¹⁰

III.1.13.2* *TRLA should provide legal work supervision that is consistent across all teams. Team managers should regularly examine the caseloads of advocates to ensure that a reasonable balance exists between advocates' legal expertise and the size of their caseloads, and should take steps to ensure that caseloads of senior staff reflect their experience, expertise, and other responsibilities.*

III.1.13.3. *TRLA is encouraged to develop systems that make all staff aware of the availability of litigation support, and should ensure that such support is provided consistently throughout the program.*

III.1.13.4. *TRLA is encouraged to develop systems to organize pleadings and other materials on the CTS in a manner that is most accessible and to explore the use of its wiki or other available systems to maximize the accessibility and usefulness of the wealth of information and litigation assistance tools developed by program staff.*

III.1.13.5. *Consideration should be given to developing annual or periodic training plans for all advocates, not just attorneys. The new general counsels should give thought to how they can best create and use training opportunities to advance the effectiveness of the program and pass along the program's culture of aggressive advocacy and excellence to a new generation of lawyers.*

III.1.13.6.* *Team managers and other supervisors should receive management skills training.*

III.1.13.7.* *As resources permit, training opportunities and training expense allocations should be extended to paralegals and other non-attorney staff.*

Finding 14: TRLA obtains substantial benefits for individual clients while also achieving systemic solutions for other low-income people who may face similar legal problems.

¹⁰ TRLA's response to the Draft Report discusses the positive aspects of the team structure and the voluntary nature of membership in those teams. The response states that if a team member appears overextended, managers can take appropriate measures including removing the person from a team. TRLA also notes its opposition to "a uniform, arbitrary limit" on the number of teams that an individual could join. *Response* at 11.

TRLA represents clients in a full range of cases, including consumer (e.g., automobile repossessions, deceptive sales practices, debt collection), family (e.g., protection for victims of domestic violence, custody, child abduction including international abduction), housing (subsidized and private landlord-tenant, *colonia* resident rights, manufactured housing, foreclosure, fair housing), disaster assistance (e.g., Federal Emergency Management Agency and Department of Housing and Urban Development benefits appeals), education (e.g., special education), elder law (e.g., guardianships, nursing home resident rights), public benefits (e.g., food stamps/SNAP, TANF, Medicaid, Social Security and Supplemental Security Income, Medicaid and Medicare, veterans benefits), environmental justice (e.g., representation of low income residents affected by land or water contamination), and low-wage worker employment (e.g., unemployment appeals). The farm worker team cases are discussed in Finding 34.

TRLA has a national reputation for high caliber legal work that frequently results in substantial benefits for individual clients as well as for the client community. For example, as a result of TRLA's advocacy: residents of federal housing programs have the right to designate a contact person or agency to receive copies of notices; the Federal Emergency Management Agency must clearly outline the criteria its inspectors use in determining whether to award disaster aid; public housing authorities are prohibited from requiring grandparents with possession of grandchildren to obtain a court order of custody before they can participate in the Section 8 Housing Choice Voucher Program; conditions for adolescents held in immigration detention centers have improved and the incidence of abuse of young detainees has decreased.

TRLA joined Legal Aid of NorthWest Texas, Lone Star Legal Aid, and other non-profit organizations to represent fifty individuals in an action filed in state court and using state law to challenge delays in processing applications for benefits under the federal Supplemental Nutrition Assistance Program (SNAP, previously known as food stamps). And the program is currently representing 43 individuals seeking reimbursement from the Texas Manufactured Homeowners' Recovery Trust Fund based on fraud by a Texas mobile home park that included not providing the mobile home that had been purchased and not providing clear title to the home.

Recommendation:

III.I.14.1. *TRLA is encouraged to continue to use the legal system to protect and enhance the legal rights of low-income persons. Group coordinators and team managers should continue to seek ways to encourage proactive, significant litigation, and to ensure that all members of the team are engaged in such work.*

Finding 15: TRLA's productivity could be enhanced by improving efficiency in several aspects of its delivery system.

TRLA case closures have remained relatively stable, with approximately 21,000 to 22,000 cases closed per year. There was some decrease in cases closed between 2010 and 2011, from 23,129 in 2010 to 21,786 in 2011. This decrease is likely attributable to the loss of advocate staff; TRLA lost six attorneys and two paralegals from 2010 to 2011. However, the program's overall closed case numbers are below national norms. In 2011, TRLA closed 194 cases per

10,000 poor persons, compared to the national median of 263. The number of extended cases closed per 10,000 poor persons was 37, compared to the national median of 61; and the number of contested cases closed per 10,000 poor persons was 15, compared to the national median of 31.

Case closing data can be influenced by factors such as funding, management and programmatic transitions, staff experience levels, demographics and geography of the service area, changes in priorities or level of services provided, work that is not captured by CSRs, allocation of resources, or complex litigation. For TRLA, one likely factor is the intake and case acceptance system discussed above, which does not include an advice and brief services component for those eligible individuals who do not require extended services. Another factor may be the “disposition review process” by which duty attorneys review intakes and attempt to place cases with colleagues. This system takes duty attorneys’ time away from their own cases. Reallocating some resources so that advice and brief services could be provided earlier in the process would increase the number of persons served, free duty attorneys to focus on more complex intakes and ongoing cases, and allow advocates to focus more on extended cases.

We also recognize that a third factor likely influencing the number of cases closed by TRLA is the commendable number of complex cases, such as those as described above, which take time and resources and can benefit the greater community.

Recommendation:

III.1.15.1.* TRLA is urged to review its intake, case acceptance and case assignment protocols, and other systems, to identify inefficiencies that may be limiting the number of clients served.

Criterion 2. Private attorney involvement.

Finding 16: TRLA demonstrates an ongoing commitment to effectively integrating private attorneys into its work, and to providing them with support and recognition for their service.

TRLA is fortunate to operate in a state in which leaders of the justice community -- the Texas Supreme Court, the State Bar of Texas, and the Texas Access to Justice Commission -- have demonstrated support for legal services and for pro bono. The Supreme Court requires attorneys licensed in Texas to report their pro bono hours, and has adopted an emeritus rule to encourage retired and inactive attorneys licensed in Texas and other states to volunteer. TRLA contributes to this atmosphere by collaborating with other providers in the state to develop systems and provide support for pro bono. Pro bono coordinators from TRLA and other programs in the state have begun meeting annually in Austin. The executive director is a member of the Texas Access to Justice Commission. Staff are encouraged to be active in state and local bar associations, and several hold or have held leadership positions. It is particularly noteworthy that the Pro Bono Group Coordinator serves as Chair of the Board of Directors of the State Bar of Texas. All of these activities encourage private bar awareness of the program’s work and promote private bar involvement in that work.

TRLA's PAI plan describes the models used to involve private attorneys, and its activities reflect the plan and are consistent with program priorities. In addition to handling individual cases and co-counseling with staff, volunteers participate in clinics, conduct community legal education, assist in development of materials, and help with staff training. The program includes both pro bono and reduced fee arrangements. Reduced fee attorneys assist in more complex matters, including family violence (through the collaboration with shelters) and major litigation (where they may also co-counsel with program attorneys). PAI coordinators are experienced and enthusiastic.

The TRLA service area includes large cities with significant numbers of lawyers and large law firms, as well as very remote rural counties with only one practicing attorney. Several counties have fewer than five lawyers. As a result, the program must be creative and provide varied opportunities for involvement. It uses a variety of methods to recruit potential volunteers, including presentations at bar association meetings, articles in bar journals, and emails to bar members. Prospective volunteers can also apply on the TRLA website. In some counties, judges assist with recruitment. El Paso County is unusual in that attorneys are required by the court to handle two family law cases each year on a pro bono basis. Bilingual attorneys assist clients who have limited English proficiency.

In 2011, TRLA closed 2,527 PAI cases. CSR data show that the number of PAI cases closed per 10,000 poor persons (23 in 2011, 29 in 2010) is consistent with the national median (26 in 2011, 23 in 2010). The number of extended PAI cases closed per 10,000 poor persons (9 in 2011, 10 in 2010) is also consistent with the national median (9 in 2011, 9 in 2010). Of the total PAI cases closed in 2011, 37.5% (948) were extended service cases and 62.5% (1579) were limited services. The issues most often handled by pro bono attorneys were family (55%) and consumer (11.8%), although the miscellaneous category (which includes powers of attorney, simple wills, and assistance to non-profits through the innovative Texas C-Bar program, described below) comprised 23%. Approximately 51% of the cases closed by TRLA as PAI were counsel and advice, 11.4% were limited action, 26.7% were the result of court decisions in uncontested cases, and 2.9% of court decisions in contested cases.

TRLA's primary model for providing pro bono in the communities served by the San Antonio, Laredo, Rio Grande Valley, and Corpus Christi offices is through the Community Justice Program – group clinics conducted in collaboration with the bar and courts. At these clinics, participants who have been screened for program eligibility receive individual legal assistance from volunteer attorneys on such topics as uncontested divorces, wills, guardianships, name changes, veterans issues, and bankruptcy. Volunteer judges, court reporters and other court staff participate in the clinics to facilitate court filings and conduct hearings. An example of this model is the divorce clinic, a two-step process in which clients meet their attorney and have initial pleadings drafted and filed during the first session. They return for a second session for a brief court hearing before a volunteer judge to finalize the divorce. In Austin, a stand-alone volunteer lawyer program – Volunteer Legal Services – collaborates with TRLA to operate neighborhood clinics at which volunteer attorneys provide counsel and advice to eligible clients.

TRLA has successfully harnessed the experience of transactional attorneys through the Texas Community Building with Attorney Resources (C-BAR) program. With funding from the

Texas Bar Foundation and other sources, C-BAR provides free business law services to community-based nonprofits developing affordable housing and other much-needed services in low-income communities statewide. Participating volunteer lawyers mostly come from large firms based in Houston and Dallas, with branches in Austin and San Antonio.¹¹

TRLA also refers individual cases directly to volunteer attorneys. It was not clear to the team how the more complex PAI cases are managed – how they are referred to attorneys who take them on a reduced fee basis, how those attorneys are selected, and how follow-up is provided.

The system for identifying cases, making referrals, and providing follow up appears to be effective. The CTS includes a set of criteria designed to screen applicants for eligibility and to refer those cases appropriate for clinics to the local office PAI coordinator, although it was not clear whether this system is used consistently in all offices or by all teams. Non-clinic cases are reviewed by the duty attorney and referred to the PAI coordinator. The document assembly feature of the CTS is used effectively to create pleadings and other documents for use by PAI attorneys. PAI staff report no significant problems with follow up and oversight of the referred cases – they receive the information they need from the attorney or obtain it from court records.

Staffing for the PAI program appears to be effective and appropriate, as does program leadership support for PAI. Larger offices have designated staff responsible for coordinating pro bono for the region. In small offices, the responsibility may rest with administrative staff under the supervision of the branch manager. In at least one office, the branch manager is actively involved in the clinics. Overall supervision and coordination is provided by the Pro Bono Group Coordinator, out of the Edinburg office. The Pro Bono Group Coordinator convenes quarterly meetings of PAI staff, and is in the process of developing PAI policies and procedures that encourage coordination, consistency, and efficiency.

TRLA provides volunteers with malpractice insurance coverage, training, mentoring, and recognition, and volunteers with whom the team spoke were enthusiastic about their participation. The program has received recognition for its pro bono work. The Community Justice Programs in San Antonio and Hidalgo County have received the State Bar of Texas Pro Bono Award, and in 2010 TRLA received the State Bar of Texas Pro Bono Coordinator award.

Recommendations:

III.2.16.1.*TRLA should continue to expand volunteer opportunities for the private bar, particularly in rural areas.

III.2.16.2.* TRLA should continue to develop policies and procedures for managing PAI that are efficient and effective for staff, for volunteers, and for clients.

¹¹ In its response to the Draft Report, TRLA states that it is currently working with the Texas Access to Justice Commission to establish an experimental assisted pro se program that will link rural clients in Jim Wells and Uvalde Counties with volunteer lawyers in large firms in urban areas. The project will use a Skype connection in one county and videoconferencing technology recently installed in the other county. *Response* at 13.

III.2.116.3. TRLA should continue to develop relationships with large national firms and corporate counsel and to encourage those firms to handle major litigation on a pro bono basis, either as co-counsel or independently. Large firms and corporate counsel can also contribute resources other than attorney representation.

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

Finding 17: TRLA’s strong relationships with other legal and social service providers in the service area have resulted in creative collaborations to serve the client community.

TRLA staff engage with other legal and social service providers on an ongoing basis to ensure that the client community is being served. Activities include regular meetings with other organizations to discuss emerging issues and ways to address them, along with the development of systems for referral, cross-training, and co-counseling. These activities have been the foundation for a number of vibrant partnerships, including the domestic violence shelter collaborations and Texas C-Bar mentioned elsewhere in this report, environmental litigation on issues that affect low-income communities, outreach and assistance to residents of *colonias* along the Texas-Mexico border. Other examples include the Medical-Legal Partnerships with local hospitals and clinics, which were recognized by the White House in 2011, and the Texas Taxpayer Assistance Project (TTAP), which provides legal assistance to low-income taxpayers on federal tax matters such as innocent spouse relief requests, injured spouse claims, audits or examinations, EITC appeals, deficiency notices, liens and levies, and settlements of tax debt.

As discussed elsewhere in this report, TRLA staff co-counsels with staff from other LSC programs to address issues statewide.

PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration

Criterion 1. Board governance.

Finding 18: The TRLA board of directors is committed to the program and its mission, exercises its fiduciary and oversight responsibilities effectively and efficiently, and receives appropriate training and support.

The TRLA board consists of between 21 and 25 members who each serve a two-year term. The composition of the board conforms to 45 C.F.R. § 1607. The by-laws provide for 15 attorney member appointments from state, county and local bar associations and for nine client eligible members appointed by organizations designated at the annual meeting. The board also includes an at-large position currently held by a non-attorney representative of a community organization. The board does not include a certified public accountant or other financial professional. This board is diverse and representative of the service area. It includes two former agricultural workers, one of whom has served for 20 years and the other for ten years. One attorney member was a founding member of the Border Labor Law Center of El Paso and is an expert in low-wage worker issues. It is reflective of the program’s reputation that at least one bar association conducts competitive interviews when it makes appointments to the TRLA board.

Board officers include the president, vice-president, secretary, and treasurer. Officers are elected by the full board, with the exception of the secretary who is a staff member. The board also includes numerous standing committees: the executive committee which has the authority to act on behalf of the full board between meetings; the finance committee; the grievance committee; the priorities committee; the by-laws committee; the nominations committee; the building/facilities committee; and the personnel committee. The full board meets quarterly, and committees meet regularly as needed. Interaction between attorney and client eligible members is good. Board minutes reviewed by the team and interviews with board members indicate that meetings are well-attended and members are well-informed of the issues being discussed. The board makes effective use of a consent agenda. Client members share fully in deliberations and their insights and perspectives are considered in board decisions. Translators are available for those who are Spanish speakers. The meeting minutes are also translated into Spanish.

Information is made available to the board through a variety of ways, including board packets delivered in advance of full board meetings electronically and/or by regular mail; written minutes of each full board meeting; and oral reports from the executive director and other management staff. The executive director also shares information with the board of directors about significant litigation outcomes. Other staff have made presentations at recent meetings. Board members are expected to adhere to *Policy Guidelines for Appropriate Conduct of Board Members*, which were added to the by-laws in 2007.

New board members receive an orientation notebook that includes the TRLA Articles of Incorporation, staff roster, TRLA history, collective bargaining agreement, LSC Regulations, board adopted policies, audit report, and other information. Ongoing trainings provided by individual board members have included financial report review, ethics, conflicts, and fiduciary responsibilities. TRLA's chief financial officer and director of administration have conducted trainings on how to read and analyze the budget, and how to identify funding sources and grant criteria. Client board members are encouraged to attend state and national training events. They report to the full board on information acquired during these events.

The board approves and adopts the budget after it is reviewed by the executive and finance committees. All members of the executive committee also serve on the finance committee. The finance committee includes additional board members and meets separately from the executive committee. The finance and executive committees receive and review monthly financial reports prepared by the accounting staff, and the full board receives and reviews quarterly reports. The finance committee solicits auditors to be considered by the executive committee to conduct the annual audit; the full board makes the final selection.

Recommendation:

IV.1.18.1. TRLA is encouraged to consider housing board related information and materials on its intranet or using another electronic document storage system such as a dashboard, in order to improve storage and enable secured access to records for board members.

Finding 19: The board maintains ongoing communication with the executive director and evaluates his performance on a regular schedule.

The board chair speaks frequently with the executive director to discuss concerns or to seek input on matters under consideration. The executive director provides oral status reports to the full board at each quarterly meeting, and initiates conference calls as needed with the appropriate committees or officers. The executive director also periodically meets with client members before board meetings to encourage their participation by discussing in advance, issues that will be addressed during the upcoming meeting.

The board evaluates the performance of the executive director every three years, and did so most recently in 2010. Board members interviewed by the team expressed great confidence in the executive director's ability to lead the organization.

Criterion 2. Leadership.

Finding 20: TRLA has a strong and highly respected executive director and an experienced executive management team.

TRLA is led by the executive director and an executive management team that includes the deputy director, director of administration, chief financial officer, and director of human resources. Each of these program leaders has substantial experience in organizational administration and/or management, and each has been affiliated with TRLA for many years. Staff members and the board acknowledge the strength of their leadership and hold them in high regard.

The executive director is an effective leader who is well-known throughout the service area, the state of Texas, and nationally as a visionary, guided by his passion for providing access to and securing civil justice for individuals and the client community at large.

Finding 21: TRLA has not adopted a leadership succession plan.

TRLA does not have formal protocols for addressing a transition in executive leadership or for developing future leaders. The deputy director position was vacant for just over two years, but in December 2011 an experienced attorney was named to the position. The deputy director position description does not include assuming leadership of the program in the absence of the executive director, although the deputy director is perceived by the executive director and the board as competent to take on this responsibility, at least on an interim basis.

As discussed elsewhere in this report, TRLA staff are not always clear about the process for applying for leadership positions, or how appointments to those positions are made. As a result, there is a perception, whether real or not, that opportunities for advancement to leadership positions are somewhat limited.

Recommendation:

IV.2.21.1.* *TRLA should develop a leadership succession plan that outlines a process for identification and selection of future leaders, provides for the coaching and mentoring of existing staff with potential to assume leadership positions, and allocates resources for management training for leadership prospects. The plan should also include protocols for the orderly transition of the position of executive director.*

Criterion 3. Overall management and administration.

Finding 22: TRLA has successfully merged the policies and procedures of five separate and diverse programs into a unified system for operating a single regional law firm.

In 2002, TRLA was faced with the significant challenge of merging five LSC grant recipients of differing sizes, professional cultures, and geographic areas and populations served, into a single regional law firm. This required unification of five diverse boards, administrative management and financial accounting systems, case management systems, intake systems, personnel policies and procedures. It also required reconciliation of different collective bargaining agreements. TRLA has succeeded at this undertaking, and now operates under a single *Employee Handbook* and *Managers' Manual* along with a variety of other program-wide policies and procedures related to the practice of law, funding regulations, and other requirements. These policies are enforced in coordination with the terms of the collective bargaining agreement.

Finding 23: TRLA has adopted a management structure that includes a layer of middle managers and that separates administrative responsibilities from legal work management and oversight in a way that may not always be most effective.

TRLA's management structure separates supervision of substantive legal work and supervision of administrative operations. Legal work management was discussed under Performance Area Three, Criterion 1. TRLA also employs mid-level managers who oversee discrete functions, including directors for resource development, information technology, intake, and litigation.

Administrative operations in each office other than the administrative (main) office in Weslaco are supervised by a branch manager. The branch manager, an attorney, is responsible for the smooth operation of the office, for working with the local community and bar associations, for facilities management, and for supervising support staff. Branch managers maintain a caseload and are members of one or more practice area teams. Some larger offices have a deputy branch manager. Branch managers supervise, evaluate and discipline staff under their supervision. They do not directly supervise the legal work of attorneys in their office. They may become involved in fundraising activities, and may help to identify grant prospects.¹²

¹² TRLA's response to the Draft Report explains that branch manager positions are not limited to attorneys, although attorneys may be better suited to serve as a spokesperson within the legal community. "Nevertheless, all employees in an office are considered as possible managers. Each situation is evaluated on an ad hoc basis, and management strives to identify the most effective leader for a local office." *Response* at 15.

This dual management structure has created some confusion over the degree of authority of branch managers to direct the activities of staff in their offices who are also accountable to team managers. There may be some redundancy in the roles and responsibilities of the team and branch manager positions. It is also unclear to whom branch managers are accountable.

Recommendations:

IV.3.23.1. TRLA should consider a debriefing with group coordinators, branch managers, and team managers, to assess the effectiveness of the current management structure and should make adjustments to that structure, if appropriate.

IV.3.23.2. TRLA should consider whether assigning administrative tasks to branch managers who are attorneys is the most effective use of limited resources, and whether it would be more cost-effective to give administrative responsibilities to non-attorney personnel.

Finding 24: TRLA’s plan for continuity of operations and disaster recovery is updated annually and is available on the intranet.

The TRLA disaster plan provides that all client documents are to be stored in the CTS and staff will have continued access to the CTS in the event of an emergency, so that client services can continue even if offices are inaccessible. The plan also describes how services are to be provided to new clients who are themselves the victims of a disaster, and includes the use of pro bono attorneys. The plan addresses individual offices where appropriate.

The program has a separate plan for the backup of all data of the program, including documents on the network drive, email, and the accounting program. For example, should the San Antonio office be closed for an extended time, full technology resources for staff could be restored in a few days using the facilities of other offices.

Technology

Finding 25: TRLA has adequate information technology staff and a solid technology infrastructure to support its work, although there are some areas where modernizations to the technology would be appropriate when resources permit.

TRLA makes effective use of its full-featured custom case management system, known as the Case Tracking System (CTS). The CTS is integrated with the accounting system and the program’s website, and staff members were well-informed about its use. Internal information is available on an intranet and on a networked drive. The five-person team responsible for technology includes a director of information technology (IT), a network systems manager, a web developer, a content coordinator, and a trainer. Staff are provided with clear instructions on how to use this support system. Information technology staff use a wiki for their own support and to support users. TRLA staff use email to report problems and request assistance from the IT team; the IT team does not use a “trouble ticket” system for tracking problems reported by users. The director of information technology is the only staff person who writes code for the CTS program.

Most staff use Citrix or remote desktop to access their workspace. Some staff store documents on local desktops that are not connected to the network. This is a concern because only network drives are backed up so those who use their local My Documents folder to store documents have no backup of the work should their local hard drives fail. TRLA has not yet moved to virtualization of servers or remote desktops.

In some offices, equipment is aging and bandwidth is inadequate, causing delays in work. One user's computer was so old that a floppy disk was needed to boot the machine. The IT team has begun the process of obtaining separate Internet connections for local users but the bandwidth is still inadequate. For example, the combined bandwidth for the Austin office is 13 mbps, less than that which is available to many home users. TRLA's servers are on twenty-two separate machines of widely different hardware configurations, some of which are quite old.

The CTS is a powerful tool and generates many standard documents and pleadings for staff. The IT team is responsible for generating and updating these documents, but there is no written protocol for managing documents and coordinating with practice area or other teams to ensure that they are up to date.

The CTS is also used to collect data that quantifies the value or benefit of the services provided to clients.

The program has no detailed technology plan, and its technology budget lacks detail and is not cross-referenced to the plan.

Recommendations:

IV.3.25.1. Since the CTS is such an integral part of TRLA's work, TRLA should ensure that more than one person in the program is trained to support and modify it, or an outside consultant should be located if there is insufficient staff trained to perform that support. An outside consultant conversant in the Fox Pro programming language should be asked to verify that the code is well-commented.*

IV.3.25.2. TRLA should create a written protocol for document storage so that users do not store important documents on local hard drives.*

IV.3.25.3. TRLA should devise a system and written protocol for regular review of documents in the CTS to assure that all pleadings, template advice letters, intake scripts, and other documents are current with changes in the law, and whether new documents are needed. It is crucial that pleadings and other law-related documents generated by the CTS be up to date and legally sufficient.*

IV.3.25.4. As resources are available, remote access to the CTS system should be enhanced and outdated work stations should be replaced. More bandwidth should be added in those offices where users routinely experience delays. The program should investigate the savings and improved disaster recovery provided by virtualization of its servers and of users' desktops. With

virtualization, the number of physical machines needed might well be reduced by more than half.¹³

IV.3.25.5. TRLA is urged to establish a technology committee that includes representatives from rural and urban offices as well as from different teams and staff levels, to develop a technology plan. The plan should include technology goals, action steps for specific tasks, and a budget for each project, and should identify the person responsible for each part of the plan. The technology plan budget should be included in the TRLA annual budget.*

IV.3.25.6. TRLA should consider a “trouble ticket” system for tracking reports of problems and requests for assistance. Such a system would help responders to organize their work and create accountability; it would also generate reports and provide the IT team with a broad view of problems and trends that can help to focus the goals of a technology plan.

Criterion 4. Financial administration.

Finding 26: TRLA appears to have sufficient and capable staff dedicated to financial administration.¹⁴

The accounting team is headed by the chief financial officer, who has more than 40 years of accounting experience, including 30 years with TRLA. She reports to the Director of Administration. The team also includes two accounting managers and five accountants. Accounting practices follow the *TRLA Accounting Policies and Procedures Manual*, which was updated in 2010 to conform to the *Revised LSC Accounting Guide*. The chief financial officer prepares monthly financial reports for the executive director, the finance committee, and the executive committee. The full board receives quarterly reports. TRLA does not have a separate audit committee; the audit is conducted under the direction of the finance committee.

TRLA adopts an annual budget that reflects the program’s goals and objectives and is based on actual and projected funding and grant requirements. The accounting staff develops a proposed budget, which is reviewed by the finance committee before it goes to the full board. In 2011, TRLA had a fund balance of approximately \$2 million. However, it projects a revenue loss of \$2 million in 2012, so will need to draw upon its reserve accounts. Financial operations are reviewed by the accounting staff in conjunction with the annual audit.

The accounting team coordinates with the grants manager and resource development director to develop budget calculations in preparation for submission of grant proposals and applications.

¹³ TRLA’s response to the Draft Report explains that outdated computers are replaced at a rate of five per month, and that the IT staff is exploring the advantages and disadvantages of virtualization. The program has begun to enhance bandwidth in offices that have experienced data delays. *Response* at 16.

¹⁴ This visit was conducted by the Office of Program Performance for the purposes set forth in the Introduction. OPP findings and recommendations under this criterion are limited to staffing, organization, and general functions. Assessment of fiscal operations is conducted by other offices at LSC.

Like TRLA's case management system, the software used to manage the program's finances was developed in-house. The system is DOS-based with a Windows interface. The program has considered newer products but finds the existing program to be sufficient.

Recommendations:

IV.4.26.1.* *The program should prepare a multi-year budget that includes projections going out at least two years.*

IV.4.26.2.* *TRLA should ensure that the design, implementation and modification of its proprietary automated accounting system are sufficiently documented and supported to avoid loss of institutional knowledge in the absence of its developers.*

Criterion 5. Human resources administration.

Finding 27: TRLA has effective human resources administration, and its policies and practices are designed to recruit and retain high quality staff, but the procedures used to fill management positions are not always clear.

To handle human resources matters, TRLA employs a human resources director, an employee benefits director and an administrative assistant located in Weslaco, as well as a risk and materials manager located in El Paso. The human resources director is a member of the leadership team. She has decades of experience with the program and has attended numerous trainings to develop her skills, including those offered by MIE and the Texas Workforce Commission. She is also responsible for LSC compliance and reporting. The employee benefits director has an MBA degree and significant additional relevant training and experience.

TRLA offers staff a generous benefits package. Health and dental insurance and short and long-term life insurance are available at no cost to the employee. Dependent coverage premiums are tied to the employee's tenure with the program. TRLA contributes to employee 401(k) accounts at a rate of 1.5% of salary for the first four years of employment, increasing gradually to 5% for those who have ten or more years with the program. This is a direct contribution, not a match. Attorneys can participate in an LRAP, although they must first apply for TAJF, LSC, and law school assistance. The program pays bar dues. Salaries and benefits for unionized staff are subject to the collective bargaining agreement. Salaries have been frozen for three years, which has resulted in new attorneys coming into the program at the same salary level as those with two years of experience.

Although performance evaluations are expected under the personnel policies, they are not conducted consistently. Some staff report having received useful, productive evaluations, while others who have been with the program for several years have never been evaluated. The human resources director recently initiated a system in the timekeeping records for reminding supervisors when an evaluation is due.

One issue of concern within the purview of human resources is the method by which managers are appointed. There does not appear to be a protocol for announcing open positions and accepting applications. As a result, staff who have wanted to apply for a position have not

had the opportunity to do so. While these appointments may indeed have been made thoughtfully and in an effort to develop new leaders, the process negatively affects staff morale.

Recommendations:

IV.5.27.1. All TRLA staff, including managers, should be evaluated on a regular basis. Evaluations of managers should include a formal system of feedback from staff supervised, directly or indirectly, by the manager. Evaluations of advocates should address issues related to staff productivity -- however TRLA chooses to define that term -- and the quality of written and oral advocacy. Training and professional development should be tied to the evaluation. The evaluation process also provides an opportunity to recognize staff achievements.*

IV.5.27.2. TRLA should review its policies regarding employee transfers and promotions and the creation of new positions to ensure the greatest transparency of process and to provide an opportunity for interested employees wishing to pursue these opportunities to do so.*

Criterion 6. Internal communication.

Finding 28: TRLA's management and operations structure, designed in part to break down barriers resulting from the merger, have been generally successful, and most staff consider themselves to be part of a regional law firm.

Inter-office communication in an organization as large and spread out as TRLA can be challenging, particularly when that program is the result of the merger of five distinct programs. Efforts to overcome the obstacle of distance and staff loyalty to previous programs have been generally successful, and most staff consider themselves to be part of a regional law firm. The team approach to legal work management and the use of technology (CTS, email) have been integral to this effort. Advocates collaborate on cases even when they are in different offices, and they use the CTS to work on pleadings together. Many staff commented that they frequently contact colleagues in other offices about cases and other issues.

Notwithstanding the foregoing, additional challenges remain. The level of communication within teams and among teams varies with individual managers. There are no regular meetings for branch managers, or team managers, or group coordinators, and there has not been an all-staff meeting in several years. The human resources director recently started an email newsletter to announce staff changes and other happenings in the program, but there should be a more consistent effort to alert staff to such events before they happen when practicable.

Recommendation:

IV.6.28.1. TRLA management is urged to maintain regular, two-way communication with branch offices in order to minimize any perception of isolation or of information barriers that may arise as the program responds to funding challenges. In addition, mechanisms should be developed to share information among teams, among branch managers, and among and within offices.*

Criterion 7. General resource development and maintenance.

Finding 29: TRLA utilizes effective systems for resource development and has diversified funding sources.

TRLA has a development director and a grant writer on staff, working under the supervision of the director of administration and in cooperation with the grants manager and assistant grants manager. The program has a written development plan whose short term goal is to maintain current services in the face of an expected loss of \$4 million in LSC and IOLTA funds in 2012 alone, and whose long term goal is to diversify revenue sources and increase capacity to meet the challenges of 2013 and beyond. In 2012, LSC funding makes up approximately 52% of TRLA's total revenue. The program received approximately \$2 million in federal, state, county and foundation grants, plus \$8.9 million from the Texas Access to Justice Foundation. Legal services programs in Texas have been fortunate to have the support of the Texas Supreme Court and the state legislature, resulting in significant state appropriations in recent years. In 2011, TRLA received \$11,000 in attorney's fees and approximately \$16,700 in *cy pres* awards. The board of directors does not have a resource development committee, but the board receives a development report at their quarterly meetings, and members assist the development team with making connections to potential donors. The development plan calls for increasing collaborations such as the medical-legal partnerships and strengthening ties to corporations and other potential donors.

TRLA's communications director uses traditional and social media to feature program news and accomplishments in part to promote contributions. The program offers a subscription newsfeed, and has a Facebook page that highlights events and successes. The TRLA website includes a "donate" option.

TRLA does not produce an annual report for public dissemination.

Recommendations:

IV.7.29.1. TRLA should establish a board committee responsible for resource development, particularly in light of current funding challenges.*

IV.7.29.2. TRLA is urged to consider producing an annual report for public dissemination when resources permit.

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

Finding 30: TRLA maintains and encourages a coherent delivery structure that is a key component of the statewide legal services delivery system.

TRLA is one of three LSC-funded legal services programs in Texas and is the primary provider of legal services to the poor in its service area. Staff collaborate with other LSC and with non-LSC legal services providers in Texas and with state and local bar associations, law

firms, law schools, and community organizations to support and enhance access to justice. TRLA staff are encouraged to be active in state and local bar associations, and several have served in key positions where they contribute valuable perspectives to deliberations on the provision of legal assistance to low-income persons. Staff serve as resources to other advocates at the local, state and national levels by providing training at conferences, participating in task forces and on committees, and by being available to individual advocates seeking assistance.

NATIVE AMERICAN PROGRAM

Finding 31: TRLA provides effective representation to the Kickapoo tribe, given the limited resources available.

TRLA receives LSC's smallest Native American grant (\$34,619 in 2011), and expends these funds primarily in representation of the Kickapoo tribe located near Eagle Pass on the U.S. - Mexico border. This representation is conducted out of the Eagle Pass branch office. In 2011, TRLA represented 24 clients and closed 13 cases, all but one of which were in the extended service category. Most individual representation is resolved through court decision or settlement after litigation, and involves consumer and employment issues. The main use of resources was for the program's assistance in the development of the tribal code, which is modeled more after that of Wyoming's Shoshone than the code used by the tribe's relatives – the Oklahoma Kickapoo. TRLA is now assisting the tribe with development of a youth code.

MIGRANT FARM WORKER PROGRAM¹⁵

TRLA operates migrant farm worker legal services programs in Texas (Migrant-TX for purposes of this report), and in six southern states under the umbrella of the Southern Migrant Legal Services (SMLS). In Texas, migrant farm worker advocates are located in branch offices throughout the program; SMLS advocates are based in Nashville, Tennessee. This model is effective because many migrant farm workers live in Texas and travel through the other states, either alone or with their families, as they follow the growing season. The primary crops harvested in Texas are sugar cane, okra, onions, carrots, cabbage, green vegetables, pecans, and tomatoes. In the states served by SMLS, the crops include cotton, berries, tomatoes, tobacco, aquaculture (catfish, crawfish, and alligator farming) and sugar cane.

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

Finding 32: TRLA assessed the legal needs of migrant farm workers in 2010, and has set goals and objectives for migrant services and developed strategies to achieve them based on available resources.

¹⁵ This section of the report includes findings and recommendations for migrant services where they differ from or supplement those provided for basic field services. Findings continue the consecutive numbering of the earlier sections of the report.

TRLA's 2010 legal needs assessment incorporated migrant farm worker issues. In Texas, the assessment was conducted through staff interviews with migrant farm workers seeking assistance at offices or during outreach during a two-week period in May, 2010. In the states served by SMLS, TRLA made an electronic survey available for use by other legal services programs, private attorneys, and organizations working with the farm worker population. In addition, a SMLS paralegal surveyed farm workers during summer outreach in five of the six states served by SMLS. Kentucky was excluded from the outreach component because the harvest of tobacco, the primary labor-intensive crop in the state, occurs in the fall. More than 600 responses were received.

Migrant-TX priorities are quite broad, although they do relate to clients' status as farm workers. The priorities were developed in consideration of the needs assessment and with input from staff. Case priority and acceptance guidelines include cases that: (1) relate to or arise out of a person's status as a farm worker; (2) relate to or arise out of a person's status as a member of a farm worker family; and (3) impact the farm worker community. The Texas farm worker team also accepts cases that fall within the TRLA program-wide priorities. In determining the level of services to provide in a case, the team considers staffing levels and other logistical concerns, case merits, potential investment of resources to prevail on the merits, and impact on the client community.

SMLS priorities are more specific than those of Migrant-TX. They include (1) employment (especially misrepresentations in recruitment and wages), (2) migrant housing, (3) workplace safety (including workers' compensation and OSHA), (4) civil rights, and (5) the right to act collectively to improve working conditions. SMLS accepts meritorious cases that involve substantial violations of clients' rights and that relate directly to the vulnerabilities inherent in the clients' status as migrant farm workers. There is a special focus on H-2A workers and victims of human trafficking, and U-visa qualifying criminal activity. SMLS selects cases that will maximize the chances of improving the working conditions of farm workers by changing the conduct of growers, contractors, and housing providers. The program gives strong preference to multiple-client cases addressing abuses endemic to a geographic region or agricultural sector.

Migrant-TX staff do not engage in yearly work planning. Team members confer, share information, and co-counsel on cases. However, in part because they are in different offices separated by hundreds of miles, they do not meet regularly as a team except at national conferences. As a result, they do not have the level of cohesiveness that existed when all or most of the advocates within an office were farm worker advocates. SMLS staff are more cohesive, in large part due to the fact that all the advocates are located in one office. They plan their activities for the coming year in late winter or early spring. The planning process includes consideration of outreach conducted during prior years and current and emerging legal problems, including "repeat offenders" and problem employers. It also includes decisions about geographical and substantive areas of focus. Advocates review outreach trip reports prepared by the paralegal for the previous year, consult with community partners in the various states, review H-2A clearance orders that have been submitted by agricultural employers, and take into account where the state Departments of Labor have been focusing (or not focusing) their efforts.

The Farm Worker Division Director, who is located in the Weslaco office and supervises both Migrant-TX and SMLS, recognizes the importance of work planning and prioritization of casework. Her hope is for the division to continue its systemic advocacy, while maintaining the ability to respond to the farm worker community as a neighborhood legal services office.

Recommendation:

I.32.1.* *The TRLA Farm Worker Division should meet as a group to engage in work planning for the upcoming year. In-person work planning would help to develop a more cohesive team, promote sharing of information among team members, and encourage strategizing on how best to target TRLA's migrant resources in Texas.*

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

Criteria 1 and 2. Dignity and sensitivity and Engagement with the farm worker population.

Finding 33: TRLA Farm Worker Division staff are culturally competent, are engaged with the client community, and take steps to ensure that program services are accessible.

TRLA's Farm Worker Division staff members are highly engaged with the client community throughout the vast service area. Outreach workers collaborate extensively with other service providers, such as La Union del Pueblo Entero (LUPE) and the Hidalgo Workers' Center, to reach clients. Farm workers throughout the service area are aware of the program's available services. Most advocates are bilingual in English and in Spanish, the predominant language of the client population. The Farm Worker Division Director is trained in the proper methods of working with interpreters.

The SMLS office is located in Nashville, but the program provides access to its services through its outreach sites in the six states served by the office. When they represent clients in state courts in states in which they are not licensed, program staff obtain admission to appear *pro hoc vice*, or they co-counsel with private attorneys licensed in that state. In Texas, team members work out of several offices, including Brownsville, El Paso, Eagle Pass, Laredo, San Antonio, and Weslaco. Also in Texas, some advocates in other offices may also work on farm worker cases.

At SMLS, intake is conducted by the outreach paralegal, who is accompanied by summer interns and on occasion by program attorneys. Intake is also conducted by phone via the office's toll-free number. The Nashville office has an established national (and international) reputation and receives regular phone calls from farm workers who have learned of the program from other farm workers. The office also receives referrals from community organizations that work with the farm worker population in the six states served by SMLS. On rare occasions, SMLS receives intakes through the TAJ telephone line. In Texas, paralegals conduct outreach at locations frequented by farm workers, including bus stations in Brownsville and McAllen, and near key international bridges along the Texas-Mexico border. Clients also access the program in person

and by calling branch offices. TRLA also receives referrals from the state Department of Labor's monitor advocate, with whom it has a good relationship.

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

Criterion 1. Legal representation.

Finding 34: TRLA has the capacity to perform high quality, effective legal work on behalf of migrant farm workers.

The Farm Worker Division is comprised of many highly skilled advocates, including some with more than 30 years of experience in this area of law. The Texas team also has experienced members who are available to mentor newer attorneys but whose primary focus appears to be in areas other than migrant legal work. The program also has many highly experienced paralegals, including one who has been with the program for 36 years and another who has been there for almost 25 years. The prior Farm Worker Division Director, now the TRLA deputy director, has more than 25 years of farm worker law experience; the new director has nine years of experience as a legal services attorney, including as the supervising attorney in another LSC-funded program where she conducted and oversaw multi-state litigation.

Writing samples reviewed by the team and interviews with Farm Worker Division advocates reflect generally high quality legal work. Most of the cases are "bread and butter" cases, tackling problems that have been endemic for migrant farm workers for years, such as Fair Labor Standards Act and Agricultural Workers Protection Act violations, and contract and other violations under the H-2A regulations. Many cases involve multiple plaintiffs, which increases their complexity and their labor-intensiveness. TRLA advocates have also taken on more difficult and cutting-edge issues such as human trafficking, retaliation, and sexual harassment of farm workers. Some cases are co-counseled with other migrant program attorneys, and some with the private bar.

CSR data indicate that in 2011 TRLA closed 201 migrant cases, including four in Alabama, 15 in Arkansas, 13 in Mississippi, 18 in Kentucky, 13 in Louisiana, five in Tennessee, and 133 in Texas. In Texas, all but four involved employment issues; all SMLS cases were employment related. Almost 90% of the Migrant-TX cases were closed with extended services; the percentage of extended cases closed by SMLS ranged from 15% (Tennessee) to 86.7% (Arkansas). From 2008-2011, the aggregate number of cases closed by SMLS fluctuated: 134 (2008), 79 (2009), 143 (2010) and 68 (2011). In Texas, the number of cases closed also fluctuated: 313(2008), 120(2009), 191(2010), and 133(2011). The decline in Texas farm worker cases could be due to a severe drought in 2009-2010 that reduced the Texas migrant population during those years, or cases that were handled on behalf of migrant farm workers but coded as immigration or tax issues. The decline might also be due to the fact that some highly experienced farm worker team attorneys have not been handling many farm worker cases.

The outcomes of significant litigation reflect the program's strategic approach as well as a high level of advocacy. The focus is on litigation against specific growers in certain crops,

where success would result in systemic change. For example, the program has litigated a number of “corn detassling” cases against seed companies such as Monsanto and Pioneer that have resulted in changes to compensation schemes and working conditions.

Farm Worker Division attorneys and some paralegals attend the National Farmworker Law Conference, held every other year in conjunction with the NLADA Annual Conference, and the Nashville attorneys have access to additional trainings in the southeast region.

Farm Worker Division advocates in Nashville use cell phones to communicate with clients, portable scanners to record documents, GPS mapping to document where farm workers are located, and video cameras to document working conditions and preserve testimony. One paralegal reports that some farm workers communicate with him via Facebook.

Recommendation:

III.1.35.1.* TRLA should encourage experienced Farm Worker Division attorneys to mentor newer advocates to ensure the continuation of institutional knowledge and culture of advocacy, and to engage in more direct representation of clients themselves.

Finding 36: Supervision and management of legal work within the Farm Worker Division is generally sufficient, although it is more structured in SMLS than in Migrant-TX.

SMLS staff meets weekly to discuss new and ongoing cases. Attorneys keep open case lists on the shared drive, and update those lists to include deadlines and next step(s). Attorneys co-counsel significant cases with another staff attorney or with the branch manager. The outreach paralegal prepares trip reports after each outreach visit, and meets with the branch manager approximately twice a month to discuss his work. The branch manager has not conducted performance evaluations yet as she had only been in the position for seven months at the time of the visit.

Supervision of the Texas-based staff of the Farm Worker Division has been less formal. While the CTS has is used to review individual advocates’ casework, regular comprehensive case reviews have not been routinely conducted. The Texas-based team members have not received performance evaluations in recent years. At the time of the visit, the new Farm Worker Division Director had begun to visit offices where team members are located, and to identify which advocates were working on which types of cases and their areas of expertise and experience. She was considering the development of outreach plans to acquire a better sense of the major systemic issues for farm workers in Texas, and planned to begin co-counseling on select cases with other advocates.

Recommendation:

III.1.36.1.* TRLA should adopt more formal management systems and practices for the Texas-based members of the Farm Worker Division.

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

Finding 37: TRLA leverages LSC’s resources in the six states served by the SMLS by providing significant administrative support to the operations of the Nashville office.

In addition to the substantive legal support provided by the Texas-based Farm Worker Division staff to SMLS staff, TRLA enhances the limited federal resources directed to the SMLS service area by sharing program governance, leadership, and administrative resources. Migrant funding for each of the six states served by SMLS is relatively low. In 2012, funding is: Alabama (\$30,991), Arkansas (\$74,450), Kentucky (\$48,087), Louisiana (\$25,938), Mississippi (\$53,757), Tennessee (\$40,087), and Texas (\$1,308,370). TRLA also devotes significant program funds to support the administrative operations of the Nashville office. In fiscal year 2011, TRLA absorbed all but \$21,043 of the SMLS administrative expenses. Those funds were used to help cover the costs on the Nashville office space. In fiscal year 2012, TRLA will cover all non-personnel costs. This support reflects TRLA’s regional approach to migrant farm worker advocacy.¹⁶

Finding 38: The SMLS Nashville office effectively leverages its resources through the use of law student interns and other volunteers.

The office usually has one extern from Vanderbilt University Law School for approximately eight hours per week during the school year. During the summer months, it makes use of four full-time volunteers – three law students and one intern from Student Action with Farmworkers (based in North Carolina). The SMLS office branch manager reports that internships are in high demand. The office was recently approved as a Jesuit Volunteer Corps placement site, and will thus have the services of another volunteer for one year. The Texas-based team has made less use of students in recent years.

Finding 39: TRLA is an active participant in regional and national efforts to provide migrant farm workers with access to legal services.

¹⁶ In its June 12, 2012, *Report on Selected Internal Controls at TRLA (“OIG Report”)*, the LSC Office of Inspector General finds that “the cost allocation system for the migrant grants was not based on the expenditures made providing services to clients in each service area.” In Recommendation 3, the OIG recommends that TRLA “ensure that a cost allocation is developed that accurately accounts for the expenditure of LSC funds for each migrant grant and that the LSC funds provided are expended for services applicable to the respective service area.” *OIG Report* at 6. In comments to the draft OIG report, TRLA explains that it is able to provide effective services to the six southern states served by SMLS by pooling the relatively small grant funds and supplementing SMLS staff with fellowships and some financial support from the Texas migrant grant. TRLA further states that it will seek approval from LSC to operate the SMLS in a unified manner. *Response of Texas RioGrande Legal Aid to the Draft Report on Selected Internal Controls of the Legal Services Corporation Office of Inspector General*, February 2012 (no page number). The OIG has referred Recommendation 3 to LSC management and further notes in its report, “Regardless of whether LSC management approves pooling of the funds in question, the grantee needs to implement an acceptable allocation methodology to account for and allocate those funds by grant.” *OIG Report* at 7. <http://www.oig.lsc.gov/reports/1203/744100TRLA.pdf>.

TRLA has long had a national reputation for high quality representation of migrant farm workers. TRLA advocates work collaboratively – including co-counseling – with each other, with other legal services programs, and with private attorneys. They participate as speakers at the National Farmworker Law Conference and at statewide legal services conferences such as those in Arkansas, Kentucky, and Tennessee, and at the Texas Poverty Law Conference. An SMLS advocate was a speaker at the Tennessee Immigrant and Refugee Rights Coalition’s annual conference, and SMLS advocates work closely with the Knoxville Tennessee office of Jobs with Justice.