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| **MINNESOTA SUPREME COURT**  **LEGAL SERVICES PLANNING COMMITTEE** |

**REPORT TO THE LEGAL SERVICES ADVISORY COMMITTEE (LSAC)**

**ON FUNDING RECOMMENDATIONS**

**SEPTEMBER 30, 2010**

**Introduction**

The Legal Services Planning Committee was created by Minnesota Supreme Court order in June 2005. The mission of the committee is to **assure access to justice for low income and disadvantaged persons throughout Minnesota who face significant barriers to meeting their civil legal needs. In December 2010, the Legal Services Advisory Committee (LSAC) requested that the Planning Committee** provide recommendations for funding in time for the FY12-13 grant cycle. This report is the Planning Committee response to that request.

To complete its work on this project, the Planning Committee divided in to three subcommittees: Attributes, Equity and Alternatives. The Planning Committee also called a meeting on September 20, 2010 to get stakeholder feedback on the subcommittee recommendations. The feedback from those stakeholders was invaluable, and as much as possible, that feedback has been incorporated in to this report.

The Planning Committee understands that LSAC may or may not adopt its recommendations when setting priorities for the next funding cycle. The FY12-13 grant cycle is going to be very difficult and the Planning Committee spent many hours discussing how to set priorities in a time of revenue decline. A repeated question with the subcommittees was “what can least afford to be cut?” The Planning Committee hopes that its efforts are of some assistance to LSAC in making these important funding decisions.

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William Mitchell College of Law

Jim Baillie

Fredrikson & Byron

Karen Canon

U. S. Bank

Joseph Dixon

Henson & Efron

Hon. Sam Hanson (retired)

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Fourth Judicial District

Charles Reynolds

Odland, Fitzgerald, Reynolds & Harbott

Sally Scoggin

Briggs and Morgan

Katie Trotzky

Legal Assistance of Dakota County

**Attributes Subcommittee Report**

**Overview**

The Attributes Subcommittee met three times between March 2010 and July 2010. The focus of the subcommittee was to determine the most important factors in evaluating effective legal services programs. The committee reviewed several reference materials, including:

* Legal Services Corporation (LSC) Performance Criteria, March 2007
* American Bar Association (ABA) Standards for the Provision of Legal Aid, August 2006
* ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means, 1996
* Minnesota Council of Nonprofits Principles and Practices for Nonprofit Excellence, 2005
* Charities Review Counsel Accountability Standards, October 2009

**Findings**

Successful legal services programs include effective service to clients, strong organizational capacity and a high level of community integration. The following outline goes into detail on these priority areas and lists indicators of effectiveness that should be considered in the LSAC grant process.

**Findings Relevant to Direct Service Programs**

**Service Effectiveness: Program services should be effective for clients. Indicators of effectiveness include:**

1. Access to Services: Clients should be able to access program intake and receive a decision on eligibility and case acceptance within a reasonable amount of time.[[1]](#footnote-1) Areas of inquiry:
   1. Intake hours
   2. Length of time for eligibility decision
   3. Number of telephone calls or visits client must make before receiving eligibility and case acceptance decisions
   4. Availability of intake away from program offices
   5. Availability of appropriate accommodations for potential language, disability, cultural, transportation, communication, or other barriers
2. Internal Program Evaluation: A program should regularly evaluate its services and have a process in place to guide program improvement based on that evaluation.[[2]](#footnote-2) Areas of inquiry:
   1. Whether the program has an internal evaluation process
   2. Whether the program has a system in place for improving based on that evaluation
   3. Is there evidence that the program actually made changes in goals, objectives, strategies or work after evaluation?
3. Staff Development: A program should provide access to ongoing and comprehensive training for all personnel.[[3]](#footnote-3) Areas of inquiry:
   1. What types of training did staff and attorneys participate in during the last year?
   2. Does the program provide cultural competency training for staff?
   3. Does the program have strategies in place to stay abreast of relevant developments and issues affecting the low-income population?
4. Staff Experience Levels: A program should have the experience and capacity to provide high quality services to clients. Areas of inquiry:
   1. Do staff and attorneys have the necessary experience in legal services and other relevant experience?
   2. What type of case supervision is provided for less experienced staff?
   3. Is there evidence of unusual disruption, such as frequent or repeated changes in key personnel or other basic operations?
5. Effectiveness of Service: Programs should be concerned with outcomes and benefits and the program should develop a method of gathering information about them.
   1. What information does the program collect about the benefits it achieves for clients and the communities in which they live? Does it track whether the client’s objectives were met? How does the program use that information?
   2. What evidence is there of benefits for clients as a result of the program’s work (whether the work involves advocacy, education, support or other activities)?
6. Efficiency of Service: Programs should keep case statistics (and/or other information depending on the work of the program) to adequately track the work they are doing and be able to report to funders. Areas of inquiry:
   1. For programs that provide direct client services, case records should include at least the type of case by substantive area of law and level of service (i.e. brief service, full representation). If applicable, records of impact litigation, policy advocacy and community legal education should also be maintained to provide meaningful reporting and evaluation.
   2. The efficiency of the program should be measured in part by a review of the cases handled and the resources (i.e. budget) used to handle those cases. Programs should develop objective measures of efficiency for internal use. One such measure is a cost per case calculation, which could be used by programs to internally evaluate efficiency over time. Note, however, that the Planning Committee recommends against using a cost per case measure to compare one program to another, for a number of reasons including the fact that “case” covers a wide range of services (from a brief telephone conversation to extended representation lasting months or years), and that other factors, such as geographic distance, location, language, or other issues will impact delivery costs and not lead to a meaningful analysis of efficiency between programs. In addition, cost per case does not take into consideration the resources needed for impact litigation, policy advocacy and community legal education, all of which are essential to effective legal services. It should be noted that a small minority of the Planning Committee favored requiring programs to develop “cost per case” data for internal and external use. The Planning Committee encourages legal services programs to work in conjunction with LSAC to identify other objective measures that might help evaluate the efficiency of their programs.
7. Priority Setting: Programs should have a process for setting priorities based on available resources and client needs.[[4]](#footnote-4) Areas of inquiry:
   1. How does the program implement its priorities?
   2. The program looks for systemic solutions for client problems.[[5]](#footnote-5)
   3. The program uses a variety of mechanisms to address systemic issues (e.g., policy advocacy, coordination with LSAP on issues with possible legislative solutions, systemic litigation, preventive legal education, etc.).

**Community Integration: Programs should have relationships with other organizations that serve the client population, and with organizations that address similar substantive issues. Indicators of adequate program relationships include:**

1. Collaboration: “It is incumbent on legal aid providers to work in concert so that maximum use is made of the resources that are available.”[[6]](#footnote-6) A program needs to be actively working with other low-income service providers in its area - including other legal services organizations, social service agencies, courts, organized bar, volunteer attorneys, government agencies and state and national legal advocacy organizations - to understand how to best serve clients. Areas of inquiry:
   1. With what organizations in its community has the program regularly communicated or worked in depth? What were the nature, duration, and results of those communications?
   2. What organizational partnerships – formal and informal – has the program participated in during the last grant cycle? What partnerships does the program anticipate for the coming cycle? This should include at a minimum organizations doing similar and/or related legal work. What, if any, are the relationships?
   3. What meetings or other gatherings do staff members regularly attend in the communities they serve?
   4. Does the program do any follow up with other legal service programs to which clients are referred to see if those referrals are effective?
2. Community Confidence: A program should have the trust and confidence of clients, the local bench and bar and community groups.[[7]](#footnote-7) Areas of inquiry:
   1. Does the program seek input about priorities and effectiveness from clients, the local bench and bar and other organizations serving the client community?
   2. What is the experience among these groups with the program’s services?
3. Participate in the Statewide Legal Services Delivery System: Within the context of the statewide and regional legal services delivery system, clients should have access to a full range of services to meet the low income communities’ priority legal needs.[[8]](#footnote-8)
   1. Does the program coordinate with other providers in its region to ensure full range of legal services?
   2. If more than one program provides the same substantive legal representation to the same client population in the same region, have those programs discussed the duplication? What was the result of that discussion?
   3. Has the program tried alternate delivery approaches?
   4. Is the program using a wide range of services for clients, including pro se assistance as appropriate?

**Findings Relevant to Support Programs**

**Support Effectiveness: Support organization services should be delivered in the most effective manner. Areas of inquiry include:**

1. What experience do staff members bring to the support organization?
2. What is the geographic reach of the support services?
3. Who benefits from/uses the support services?
4. What are the outcomes and benefits of the support services? When measurable, data should be maintained about the services provided. Examples include the number of people attending trainings or community legal education presentations, the number of times a fact sheet was downloaded, etc.
5. To what extent does the availability of support services avoid duplication and preserve individual program resources for client representation?
6. If these support services were not available, what would be the impact on client services? On individual program resources for client representation?

**Findings Relevant to All Programs**

**Strength of Organization: Organizations should have the necessary fiscal, administrative, governance, and other resources to insure its capacity to fulfill its mission. Indicators of organizational strength include:**

1. Governance: “The program has effective board oversight and involvement in major policy decisions, including board members who are each committed to the program and its mission, and a board that holds program management accountable for effective performance in the areas delineated by these Criteria. The board also meets its affirmative responsibility to help develop resources for the program, promote awareness of the program, enhance its effectiveness and influence and protect and defend the interests of the organization.”[[9]](#footnote-9) Areas of inquiry:
   1. The board meets regularly and has a good understanding of the mission, policies, and finances of the organization, so as to be able to make informed decisions on behalf of the organization.
   2. The board has regular, effective communication with the executive director.
   3. The board regularly evaluates the executive director.
   4. The board is actively involved in fundraising and resource development.
2. Mission: “A provider should have a governing body that establishes its mission, sets and oversees implementation of broad general policies to guide the provider and actively participates in planning for its future.”[[10]](#footnote-10) Areas of inquiry:
   1. Board and staff have a shared sense of vision and mission.
   2. The Board assures that the mission is implemented.
3. Financial: “The program has and follows financial policies, procedures and practices that comport with applicable requirements of the American Institute of Certified Public Accountants, federal, state and local government, and the program’s funding sources, and conducts effective budget planning and oversight.”[[11]](#footnote-11) Areas of inquiry:
   1. The program has systems and procedures for effective financial oversight.
   2. The Board reviews financial statements at least quarterly.
   3. If past audits or outside reports and evaluations have identified problems, those issues have been adequately addressed.
   4. The program adheres to its budget and maintains adequate reserves.
   5. The program makes reasonable efforts to expand its resources.[[12]](#footnote-12)
   6. The program’s resources are appropriately diversified such that the program is not at an undue financial risk.
4. Technology: “A provider should utilize technology to support efficient operations and the provision of high quality and responsive services.”[[13]](#footnote-13) Areas of inquiry:
   1. The program has a technology plan that addresses at a minimum production and management of legal work, training and support of staff, and expanding the range of services to clients and others in the community.
   2. Appropriate staff should have access to reasonably up to date computers, software and other technology.

**Attributes Recommendations**

1. LSAC should review its grant application and should create grant review materials to ensure that adequate questions about effectiveness, strength of organization and community integration are asked of applicants. Focus on these three areas will maximize the use of limited resources by funding strong programs and unduplicated services. LSAC should give particular emphasis to:
   * Service effectiveness
   * Fiscal soundness, including adequate diversification of resources
   * Collaboration and participation in the statewide legal services delivery system
2. The LSAC application should also be reviewed to ensure that support programs are given an opportunity to highlight the work that they do and address the support program effectiveness issues described above. Support organizations that provide centralized training, technology, volunteer coordination, and financial support are critical to having a statewide system that meets the criteria listed above. Support organizations should continue to be funded in the FY12-13 grant cycle.

**Equity Subcommittee Report**

**Overview**

The Equity Subcommittee met five times between March 2010 and August 2010. The subcommittee started with a general discussion of how equity should be defined and whether it was an important priority for legal services planning. The subcommittee discussed a variety of issues, including possible inequities based on location, demographics, and language access. Staff was assigned to gather case closed data and demographic data for all LSAC funded organizations and that data, along with the Planning Committee maps of cases closed in 2006, 2007 and 2008, was reviewed by subcommittee members.

In discussing whether demographic equity should be part of the Planning Committee recommendations to LSAC, the subcommittee noted two things. First, local programs are in the best position to be aware of the needs of their community. The compiled client demographic data reflects Minnesota’s diverse poverty population and did not reveal any glaring issues that - local priorities are misplaced. Second, the Minnesota Client Access and Barriers Study (MN-CABS) is designed to try to identify populations that may be underserved. It would be premature to examine issues of demographic equity without those study results.

Review of the maps and other data led the subcommittee to focus, for the coming funding cycle, on geographic equity. To inform their discussion, the subcommittee members participated in interviews with multi-county programs covering all regions of the state (see Appendix for notes from all interviews). Staff also reviewed the models for equitable public funding distribution in Washington and Florida. The findings and recommendations in the section of the report reflect the Planning Committee’s judgment about which inequity issues are the most pressing for the upcoming funding cycle. Across time, it will of course be important to continue to be mindful of the full range of possible inequities in provision of services.

**Findings**

* Legal Services Planning Committee maps have consistently shown a wide disparity of cases closed around the state. The highest levels of client service are in counties with a staffed legal services office. Recognizing that this data does not tell the whole story regarding relative access to service, the Equity Subcommittee interviewed all the multi-county Coalition programs. All of the programs are working to address disparities in service delivery, although with some differing models. See Appendix for descriptions of the current strategies for provision of rural legal services. All programs serving rural counties described similar difficulties in maintaining outreach to clients and social service providers across multiple counties and difficulties in transportation for clients and staff.
* Rural communities also typically have fewer resources available to help respond to recurring legal problems and to alleviate their impact.[[14]](#footnote-14)1 There are fewer opportunities for private fundraising in rural areas, with individual donations, local bar associations and private foundation dollars all being more scarce outside of the Twin Cities metro area and the regional centers. The Minnesota legislature has ensured that statutory funding is distributed throughout the state through a county poverty population formula. The statute is an important vehicle for providing a base level of resources to the Coalition programs.
* In counties that do not have a staffed office, effective utilization of private attorneys is one strategy that can improve a provider's efforts to provide services directly to clients in the communities and neighborhoods where they live.[[15]](#footnote-15)2 There are practical limitations in counties with very few private attorneys, but the judicare program at Legal Services of Northwest Minnesota and the Volunteer Attorney Program have had success in covering a large area with dedicated private attorneys. Experience in both Northeast and Northwest Minnesota also indicates that not all case types lend themselves to handling by pro bono or judicare attorneys. In light of the declining population of rural lawyers, programs are starting to pilot innovative technology and make internal procedural changes in their delivery systems to make services more accessible to remote clients and expand opportunities for staff, pro bono and judicare attorneys to provide services.

**Equity Recommendations for Next Grant Cycle**

1. Access to legal aid should be relatively uniform across geographic lines.[[16]](#footnote-16)3 “Access to legal aid” refers to access to full range of services as well as to quantity of clients served. LSAC should take into consideration the disparity in economic and attorney resources, and the relative costs of services between the metro and rural areas as an important factor in distributing grant funds.

1. Local programs should structure services to respond to access concerns. To address the disparity between counties with staffed offices and those with no physical legal aid presence, multi-county programs should be expected to explain to LSAC how they intend to address the access issue.
2. LSAC should ensure that some portion of IOLTA funding is spent on reducing disparity in access to services in non-officed counties. The following are examples to improve client access:
   * staff outreach and satellite intake programs,
   * private attorney involvement projects;
   * funding for technology to expand access and services, and
   * partnerships with local social service providers.

**Longer Term Considerations**

In implementing these recommendations, it is important that LSAC be aware of potentially significant changes that are in process and which may have a considerable impact on the long-term picture:

* The 2010 census numbers are expected to become available within the next year. While the details are not known, they will reflect a continued population shift from rural to urban/suburban areas. The extent of the shift could well have an impact on decision-making about where and how to spend resources in the continuing effort to make legal services accessible throughout the state.

* The population shift is mirrored in a similar shift of the lawyer population from rural to urban areas. This will also have an impact on decision-making about how to serve remote populations.

* An on-line intake system is being developed for Minnesota. Using a similar online intake system, the urban-rural program serving Western Ohio reported that their rural applications for service outnumbered urban applications for the first time. Other technology advances like on-line advice are being piloted and will expand access to services (see Alternatives Subcommittee Report and Recommendations).

* We expect the MN-CABS project to provide valuable insights to help guide future planning and decision-making, including a more in-depth look at possible demographic inequities. Preliminary results from the study will be available at the end of 2010, with the final report due on at the end of March 2011. The Planning Committee may have additional suggestions after it has had a chance to review the MN-CABS report.

**Appendix - Notes from Equity Subcommittee Interviews**

**with Multi-County Coalition Programs**

**Legal Services of Northwest Minnesota (LSNM) Interview**

July 26, 2010

Challenges of Rural Service Delivery

The biggest challenges in serving clients who live far from an office are outreach, transportation and shrinking resources. For outreach, it is much harder to let clients know about offices when not physically located there. Outreach takes time and effort. Person to person contact is the most effective, but is becoming prohibitively expensive. LSNM used to have staff assigned to do outreach in every county, but have cut back do to funding limitations. They have used MJF interns or volunteers do outreach from time to time and judicare attorneys help with outreach. Another factor is that there is less desire to do outreach at a time when more and more cases then have to be turned away. LSNM has stopped advertising in the phone books to save money.

With transportation, there are issues for both the clients and the attorneys involved. One recent example if a client who has had a social security hearing postponed for a second time because her county funded transportation failed to show up and may be cut completely. Transportation impacts the quality of the legal work when clients are unable to get the medical documentation they need for their case, especially now with all the GAMC hospitals in the Twin Cities.

Resources are shrinking not only for legal services, but for all kinds of other supports for clients. The lack of access to mental health services in rural counties is a big issue. In bad economic times, they are facing the double whammy of cuts to local government services and an increase in client need.

Use of Technology

LSNM has been an early technology adopter. They are currently working on an online advice project that will start in 2010 and will allow attorneys to provide advice via computer to clients throughout their service area. They have toll free numbers for intake and clients are directly connected to attorney within 48 hours rather than a hotline model. They have made a conscious decision to have person answer the phone during business hours rather than the automated menu. They have used some ITV and think that video conferencing ability with public libraries or at courthouses would be really helpful.

Other Equity Issues

LSNM is trying to even cuts to staff and judicare in order to keep services available in all counties. Judicare is not more expensive than staff (cost per hour is $80 hour for staff vs. $55 per hour for judicare, plus administrative costs and 20% donation of time over maximum). They believe that judicare is a bargain in rural areas, but fewer are taking contested custody cases given the cost and time. Question for the future: with fewer young attorneys willing to go out to rural areas. Currently, two-thirds of the attorneys in their service area participate in the program and every county except Traverse, Stevens and Lake of the Woods has coverage.

For language access, LSNM has Spanish speakers on staff and a panel of interpreters or the language line when needed for other languages. Judicare lawyers can be provided with interpreters or co-counsel with bi-lingual staff as needed. They use the translated Spanish materials from state support quite a bit

Programs very aware of the inequities but have to make difficult decisions about resources. Planning Committee should be thinking about access to additional funding sources as well as complexities for rural service delivery.

**Central MN Legal Services (CMLS) / Mid-MN Legal Assistance (MMLA) Interview**

July 26, 2010

Challenges of Rural Service Delivery

CMLS has found that transportation and visibility are the biggest challenges. Transportation includes not only getting to the legal aid office, but getting to other social services. For visibility, they have been doing a lot to try to communicate with service providers.

MMLA also finds transportation and visibility to be challenges, along with lack of access to resources like college interns and other volunteers that are so helpful in the metro and in regional centers like St. Cloud. An example of a transportation issue is that social security hearings for the western part of their service area are in Sioux Falls. Help on outreach would be wonderful.

Use of Technology

CMLS has the technology for remote access intake and has a mobile printer. They are developing an electronic newsletter to keep partners more in the loop about services. Also working on possible ITV clinics with child support in Western part of the service area this year.

MMLA also has remote access intake and an internet access card for staff who are at remote locations to be able to check conflicts and access case management system. They have been doing remote intake in Marshall, Isanti, and Todd for about one year.

Both MMLA and CMLS are working on an online intake project. The experience in other states has been very positive and the usage numbers for online intake show the highest percentage of clients using the system are from rural counties. This system should be up and running in 2011 and will have benefit to other programs.

Raised the question of how to partner with courts to piggyback on better internet access, video conferencing, etc.

Other Equity Issues

CMLS is working to expand pro bono in rural counties. They pay mileage for volunteers who are willing to travel. They have tried attorney contracts in the past without a lot of success. Very few attorneys in many of the counties in Western service area. Judicare in Isanti area was also not a great experience.

The MJF clinics that pair volunteer attorneys with law students to help clients with divorce papers or another pro se topic have been successful. Todd and Morrison counties have good volunteers and expect to see decent case numbers for 2010.

Metro resources do sometimes subsidize greater MN offices (also St. Cloud subsidizing Willmar with attorneys from that office doing cases in Western service area if they have the expertise – e.g. education law).

MMLA reported that advice brief service cases and negotiated settlement cases are often done by phone, email, etc. and the cost would not be too different for an officed and non-officed county. But when there are court hearings involved the cost obviously goes up. Outreach costs are another factor. The courts are centralizing hearings and that has led to some increased travel.

Both MMLA and CMLS report that they don’t take location in to account when deciding whether to take case.

In discussing the disparity of cases in service area maps, MMLA reported working on expanding those relationships in counties west of Kandiyohi. Some of the lower service counties have different legal needs – foreclosure example; higher rates of home ownership; aging population can be less likely to call for help. The only population that is growing is immigrant population. They believe that immigrants are able to access to office services due to bilingual staff.

MMLA (SCALS) does remote intake in Todd, Wright, Sherburne, Wadena, Morrison, Mille Lacs, Chisago, and Stearns counties. MMLA (WMLS) does remote intake in Kandiyohi and Lyon counties.  This intake has been done by both offices for many years.  MMLA (SCALS) started doing remote intake in Isanti County this year following the closing of the Cambridge office.

**Southern MN Regional Legal Services (SMRLS) Interview**

August 10, 2010

Challenges of Rural Service Delivery

SMRLS reported that the biggest challenges for serving clients who live far from an office are travel costs, build trust and relationship with clients, staff retention/recruitment for isolated, non-metro offices, few attorneys locally for pro bono and supervision and support of newer attorneys. For travel, they spent the equivalent of 1 FTE on travel time in their Mankato office. Difficulty in building a trust relationship with client because often the first time they meet in person is at a court hearing because everything before that is over the phone. Staff retention and recruitment for more isolated offices in smaller towns is difficult, although applications have been up during the recession. Many attorneys see small offices as stepping stones for metro offices and don’t plan to stay for the long term. Private attorney law firms are also having trouble finding attorneys who want to stay in the local office and that has impact on pro bono.

Use of Technology

Data management program is internet based so that attorneys can look at cases when they are out of the office and can be supervised remotely. Battered women’s advocate organizations or local community action programs are helpful in faxing or emailing documents from remote locations to their office. Would like to see the courts doing more to allow ITV for additional evidentiary hearings, although technology can only go so far.

Other Equity Issues

Foundations do not seem as interested in rural areas, maybe because of lower volume. SMRLS has lost 12 attorneys across the program, including in the rural areas. Very sad to lose a Spanish speaking attorney in Worthington. They are also seeing a lot of attrition in social services providers so lose those outreach connections and have to spend the time to build the relationships again.

Limited pro bono resources because of the added expenses and time for traveling to other counties. Issue of visibility and having a presence. It is a challenge to keep community support and acceptance of your services up if you are not well known in a community.

SMRLS has done planning where core value of the program is equal access throughout service area. They have redirected more of the state money to rural counties than would be what is received on a strict poverty population formula. As an example, they used general state funding to fund the Worthington position after LSAC funding went away. They also have a commitment to one law firm model, which benefits the outstate offices because able to take advantage of supervision, support and specialists in St. Paul. They have regionalization within the service areas across multiple offices. Core value of having as much local presence as possible and do not save all that much money by closing offices because small town rent is so little and move attorneys to rent in higher priced areas.

**Legal Services of Northeastern MN (LASNEM) Interview**

August 10, 2010

Challenges of Rural Service Delivery

LASNEM reported that challenges included getting original copies back and forth to clients, not spending enough time with clients, and difficulty in outreach. Staff tries to coordinate going to an area and maximize the number of things you can get done on a trip. Difficulty in outreach and getting the word out about services. Another issue is traveling to remote appointments or clinics and having clients cancel. Access to court services and pro se materials differs greatly around the service area. Generally a lot of lost time sending attorneys to in person meetings.

Use of Technology

Email is growing as something that clients have access to, but that is often the clients who are already close to the office. Faxing is possible through social services providers and shelters. Use conference calls to assist with government bureaucracy navigation.

Trying to take advantage of pro se assistance through lawhelpmn.org and ICAN/A2J resources. Working with shelters to let them know about the availability of resources. Feedback is that younger users are more comfortable using the available online resources.

LASNEM has the availability to network anywhere where they have an internet connection, so all staff can access documents, case management system, do intakes remotely and check for conflicts.

Other Equity Issues

Have a lot more community partners and resources in Duluth than in other parts of the service area. Example of housing resources where advocates will make calls on behalf of clients in Duluth, but attorney has to make those calls in other counties. It is more time consuming because attorney has to do social work if those local resources are not available. Clients in very rural areas are only seen in person rarely and may miss issues that would be seen if the client had more personal contact. Duluth also has Early Neutral Evaluation (ENE) program so settlement rates are much higher than in other counties so that takes more time.

Cost increases with mileage and lost staff time spent on the road. LASNEM reported that distance to the client is not a factor in case acceptance decision making. Satellite location in Brainerd and Pine. Trying to maintain ratio of attorneys / people in poverty across service area (same Duluth, Virginia, etc.).

Case priorities the same across service area, but there is a difficulty with emergency hearings in remote locations. Schedule regular times with community service providers in remote locations. Courts will schedule hearings in one day in Koochiching to save time and travel.

Judicare attorneys in Koochiching continue to be a small but effective program. Refer cases to them based on availability of judicare funds, intensity of case, conflicts, etc. Judicare attorneys are good resources to be able to find out about local practices, etc. Judicare could be possible in other counties in service area.

Have outreach in Hibbing (transitional housing and AOA shared space) and Ely (shared space with social services and other government entity) at least weekly. Don’t know much about how the VAP program accepts cases. No coordination with that program reported.

**Alternatives Subcommittee Report**

**Overview**

The Alternatives Subcommittee met four times between March 2010 and August 2010. After considering a variety of different programs underway here in Minnesota and other states, the Alternatives Subcommittee focused on review of three different types of delivery programs: judicare programs that partially underwrite private attorney involvement in work for clients at or below 200% of the poverty line; telephone hotline services; and newly-developing models for provision of on-line legal services.

**Judicare:** Across the last two years, several Planning Committee members have been interested in exploring expansion of judicare in Minnesota, particularly in counties that report relatively lower rates of private attorney involvement. Minnesota has existing judicare programs that have been quite successful and may be the best models for expansion. Two important caveats temper enthusiasm about using these programs as models:

1. The existing judicare programs are mature programs that draw on years of success. A new program or a pilot program would, by definition, need to start without that advantage.
2. Resources are scarce—particularly in rural Minnesota—and it does not make sense to draw resources away from successful programs. New programs need to be underwritten by new money.

With those caveats in mind, the Committee makes the following findings and recommendations:

**Findings**

Judicare has been an effective way to increase private attorney involvement in provision of civil legal services, even in areas with relatively few attorneys per 1000 people at 200% of the poverty level.

Judicare, at least in rural areas, is best conceived of as a way to provide institutional support for pro bono efforts. Area practitioners who participate in judicare programs do so for reasons that closely parallel the reasons attorneys typically give for participating in pro bono efforts.

Judicare has been most effectively used—here in Minnesota and elsewhere—when there is strong cooperation between participating lawyers and local legal services programs. Here in Minnesota, the area practitioners actively participating in judicare programs report working closely with attorneys and other staff in area legal services program.

Resources devoted to judicare, especially in rural areas, may be an effective replacement for support available to attorneys participating in urban pro bono efforts.

Maryland currently has a statewide judicare pilot underway, paid for with IOLTA dollars. An extensive evaluation of that pilot will be completed in late 2010 or early 2011 and should be reviewed when considering judicare expansion in Minnesota.

**Recommendations**

A pilot program expanding judicare in Minnesota may be an effective was to improve access to justice in an underserved area of the state if:

* The judicare program is used to foster private attorney involvement, rather than replace existing legal service program resources.
* New resources can be found to fund an expansion of judicare efforts.
* Attorneys participating in the program are able to work closely with attorneys in area legal services programs.
* The judicare program is targeted to particular counties currently underserved and, at least initially, particular types of legal issues (e.g. extended representation family law).
* A pilot should consider the impact of the judicare model on pro bono efforts in the same or neighboring counties.

**Telephone Hotlines -** At a time of declining resources, it is tempting to try to fill gaps in service—especially those in rural areas—with telephone hotline services. Everyone, of course, recognizes that a phone call is no substitute for a lawyer able to provide extended representation. Hotlines can be an effective way to improve access to justice, but a hotline program must do more than simply widen the mouth of the intake funnel.

**Findings**

Downstream services are critical to the success of a telephone hotline. While a hotline can increase the number of potential clients contacting the system, contact alone does not improve access to justice. To improve access, a hotline must be linked to sources for additional representation or, at a minimum, advice and brief service.

The resources available for further service vary greatly across geography and change across time. Hotline services must continually update referral sources.

Client problems, even in a confined area of the law, come in all shapes and sizes. It is more effective to staff advice hotlines with experienced professionals (attorneys and others) who have the discernment needed to customize advice to fit a particular client’s problems.

**Recommendation**s

Telephone hotline services work best when confined to particular geographic areas or client demographic groups. Any statewide effort to provide hotline services is going to need to be carefully tailored to account for geographic differences.

Particularly in areas where resources are especially scarce, hotlines must be staffed by experienced professionals capable of providing effective, workable advice. In the alternative, the hotline must be tightly linked with local programs that provide additional advice or brief service shortly after initial contact.

**On-Line Assistance -** Improved internet access has prompted increased attention to development of on-line service models. Other states are presently operating on-line intake and advice projects, providing data and experience which can help development of similar projects here in Minnesota. At least three models have been used in Minnesota or are being developed for use in Minnesota.

**Findings**

There are other states that are investing resources in on-line assistance. An on-line intake model operating in Ohio has shown particular promise as data from that project has showed that the online intake feature broke down the rural barrier even better than telephone projects.  Applications from rural counties surpassed applications from urban counties.  In 2008, that program reported that 33% of requests for service came through the on-line project and 60% of those requests came from rural service area counties. This project also found that intakes done through the on-line model used fewer staff resources for data entry. A project tracking the Ohio format is being developed with LSAC support by MMLA/CMLS.

A separate model providing on-line advice is being developed by LSNM using judicare lawyers and has been used successfully in Michigan, and is in the process of replication by Wisconsin Judicare. This model will allow eligible individuals to post their legal problem in the on-line advice program. A lawyer will then be able to provide advice about the issue. The client would then log back in, using a special password to read the advice.

Both of these projects are in the final stages of development and are headed toward implementation. It is expected that both will be operational before the end of the year.

In addition to helping individuals using the systems, on-line models also can expand the reach of metro pro bono resources. They also have the potential for creating partnerships with libraries and schools in many rural parts of the state. These partnerships can help to address difficulties that local offices have using limited staff resources to conduct outreach throughout a service area.

MLSC staff have also been working on several automated document assembly projects for use by low-income Minnesotans.  These are often described as being like “TurboTax” for legal forms.  Automated court forms that have been developed include: Harassment Restraining Order; Order for Protection, and others.  They have also just completed a project funded by the Ramsey County Law Library to develop document assembly interviews for common legal, but non-court forms.  These include: Power of Attorney; Revocation of Power of Attorney; Health Care Directive; Demand for Security Deposit; Delegation of Parental Authority; and "Stop Contact" Letter to Creditors. These documents are available in English and Spanish and also have an audio version.

**Recommendations**

Minnesota has an on-line service model in the piloting stage. LSAC should support this effort and, to the extent possible, provide resources to expand successful pilots statewide.

1. ABA Standards for the Provision of Civil Legal Aid, Standard 4.1 [↑](#footnote-ref-1)
2. ABA Standards for the Provision of Civil Legal Aid, Standard 2.11; ABA Standards for Pro Bono Programs, Standard 2.12 [↑](#footnote-ref-2)
3. ABA Standards for the Provision of Civil Legal Aid, Standard 6.5 and 7.17 [↑](#footnote-ref-3)
4. LSC Performance Criteria, Perf. Area One, Cr. 1; ABA Pro Bono Standards, Standard 2.2. [↑](#footnote-ref-4)
5. ABA Standards for the Provision of Civil Legal Aid, Standard 2.6: “A provider should strive to achieve both clients’ objectives and lasting results that respond to the low income communities’ most compelling legal needs.” [↑](#footnote-ref-5)
6. ABA Standards for the Provision of Civil Legal Aid, Standard 2.3 [↑](#footnote-ref-6)
7. “The program is known to, and has the trust and confidence of, the target population and its major segments. The program staff and governing body continually work to get information, perspectives, and advice from appropriate representatives of significant segments of the low-income client population on major program decisions concerning priorities, objectives, plans, and strategies, and where appropriate and effective, involve members of the low-income population in the program’s work.” LSC Performance Criteria, Perf. Area Two, Cr. 2. See also ABA Standards for the Provision of Civil Legal Aid, Standard 2.12. [↑](#footnote-ref-7)
8. ABA Standards for the Provision of Civil Legal Aid, Standard 2,2 [↑](#footnote-ref-8)
9. LSC Performance Criteria, Perf. Area Four, Cr. 1 [↑](#footnote-ref-9)
10. ABA Standards for the Provision of Civil Legal Aid, Standard 1.1. Additional governance standards are included in the ABA Pro Bono Standards, Standard 1. [↑](#footnote-ref-10)
11. LSC Performance Criteria, Perf. Area Four, Cr. 4 [↑](#footnote-ref-11)
12. LSC Performance Criteria, Perf. Area Four, Cr. 7:

    “To the extent possible, and consistent with the program’s mission, the program seeks to maintain and expand its base of funding, with the goal of increasing the quality and quantity of the program’s services to eligible clients. The program also coordinates with and where possible utilizes outside resources such as academic institutions, social service organizations, foundations, corporations, organized bar associations, members of the private bar, and other institutions and individuals to supplement its efforts. The program works to increase the overall resources devoted to the legal problems of the eligible client population.” [↑](#footnote-ref-12)
13. ABA Standards for the Provision of Civil Legal Aid, Standard 2.10 [↑](#footnote-ref-13)
14. 1 ABA Standards on the Provision of Civil Legal Services, p. 37 [↑](#footnote-ref-14)
15. 2 ABA Standards on the Provision of Civil Legal Services, p.46 [↑](#footnote-ref-15)
16. 3 ABA Standards on the Provision of Civil Legal Services, p. 54 [↑](#footnote-ref-16)