

# ANALYSIS OF THE CIVIL LEGAL AID INTAKE INFRASTRUCTURE IN MINNESOTA FINAL REPORT

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## OBJECTIVE

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This report is presented in response to Chief Justice Lorie S. Gildea’s directive to the Legal Services Advisory Committee (LSAC) to investigate “possible improvements to coordinated infrastructure and centralized intake with ‘no wrong door’ for clients as a central value.” The analysis of the current infrastructure and intake processes and the framework for recommendations draws upon the tools available in business process analysis.<sup>1</sup> Consistent with that approach, at the outset, the team framed a short statement to capture the objectives for the analysis: “*To deliver recommendations for a collaborative system among LSAC funded programs that increases client access to civil legal aid by improving the efficiency of intake and advice processes statewide.*” This report seeks to do that.

The “efficiency” of intake and advice processes was analyzed from two perspectives. The first is from the perspective of the individuals seeking assistance to resolve or respond to a legal problem. Are they quickly able to access the most appropriate source of help and to receive that help, or if not, to be told promptly and to be given a meaningful referral to an appropriate source of help, if available? Established norms within legal aid also call for systems that do not inadvertently convey a lack of respect for applicants’ time or sensitivities.<sup>2</sup>

The second perspective from which intake processes were examined is from that of the providers. Do the processes efficiently use the time of various staff interacting with applicants, assessing their situation and providing appropriate responses? And do the organizations make the highest, best use of the professional qualifications and skills of staff members involved in the processes? As an example, are attorneys involved primarily in activities that require their skill and professional licensing and not, for example, in the initial intake screening?

The term “intake” as used in this Study involves a continuum of processes that begins with initial contact by the applicant, screening for their eligibility and assessing the nature of their legal problem and extends to a decision whether to provide services, including limited representation in the form of legal advice.

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<sup>1</sup> A member of the consultant team, Ginny Agresti, is a Lean Six Sigma Coach and statistician at 3M and an expert in business process redesign. The other consultant, John Tull, has four decades of work as an advocate, manager and consultant in legal aid work. Staff support for the project was provided by Bridget Gernander, Legal Services Grant Manager and IOLTA Program Director. John was the principal author of this Report.

<sup>2</sup> The American Bar Association **Standards for the Provision of Civil Legal Aid**, Standard 4.1 reads: “*A provider should design and operate an intake system that treats all persons seeking assistance with respect, accurately identifies their legal needs and promptly determines the assistance to be offered.*”

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## OVERVIEW OF CURRENT SYSTEMS – WHAT “IS”

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The Study was focused on the level of coordination and on the avenues and barriers to access across the statewide system. The analysis considered the intake processes in each of nineteen LSAC direct service grantees that range in size from 2 to 103 full-time employees. Some grantees provide services across a broad range of issues, while others provide services related to a single issue, such as protections under the Indian Child Welfare Act or to a particular population, such as individuals affected by HIV/AIDS, or victims of domestic violence.

To gain an understanding of these systems individually and collectively, the Study Team engaged in an extensive collection of data regarding the current infrastructure and processes for intake and referral of applicants for service. This collection of data included in-person interviews of a cross-section of staff and managers of LSAC funded programs over a nine-day period, during which five client focus groups were also held.<sup>3</sup> In addition, three online surveys were conducted:

- 1) An inventory of each LSAC program's intake procedures from initial screening to case acceptance or rejection and referral;
- 2) The disposition of the 3692 intake applications made during a 10-day period in January among all LSAC funded programs that provide direct service;
- 3) A survey of all staff and managers of LSAC funded programs regarding their perceptions of the intake process in their organization (195 respondents).

There are a variety of means by which LSAC funded programs offer access to persons seeking assistance. They include telephone intake, walk-ins, intake at advice clinics, online intake, intake at outreach sites as well as direct referrals from social service organizations or from other legal aid organizations. The following table shows how the grantees reported their use of each of these methods, without regard to the number of applicants using each.

Type of intake offered	# of Grant-ees	% of 19 Grantees
Telephone	17	89.5%
Walk-Ins	18	94.7%
Online	14	73.7%
Off-site by program staff at locations other than program offices (includes both outreach and clinics)	15	78.9%
Off-site, direct referrals from other organizations	14	73.7%

The canvas of all intakes performed by LSAC direct service grantees during a 10-day period revealed that the most common means by which applicants sought service was the telephone, amounting to 78.1% of the applications. Walk-ins (8.7%) and intake at clinics (7.3%) were the other most common means.

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<sup>3</sup> Client focus groups were conducted in Bemidji, St. Paul, Minneapolis, Anoka and Rochester.

Type of intake sought by applicants	Number	Percent
Telephone	2883	78.1%
Walk in	323	8.7%
Intake at one of our clinics	271	7.3%
Online	102	2.8%
Direct referral from a social service organization that skips regular intake	32	0.9%
Direct referral from another legal aid that skips regular intake	26	0.7%
Outreach site	20	0.5%
Mail or e-mail	10	0.25%

How each of these intake methods was utilized varied significantly among the grantees, based on their size and mission. The four larger, full-service programs with multiple offices are organized to respond to a high volume of intakes across the spectrum of issues from both urban and rural areas. Of the smaller grantees, three serve only one county, one serves Native Americans, four serve specific populations or work on specific issues. They organize their intake in accordance with their resources and the focus of their work. Four grantees are organized principally around the use of volunteer lawyers and their intake systems are organized to maximize effective use of that resource.

**Telephone intake systems** are organized very differently among the grantees. Southern Minnesota Regional Legal Services (SMRLS) is organized around a telephone Intake and Hot Line Project that accounted for 92.3% of its intake during the intake disposition survey. The system is organized to maximize the use of trained specialists to determine, according to specific case acceptance guidelines, who will receive full representation by the appropriate substantive unit. For those who do not get full representation, hotline attorneys provide legal advice, forms and other self-help support.

Other larger programs use an Attorney-of-the-Day (AOTD) system in which attorneys are assigned on a rotating basis to answer questions and speak with applicants who need immediate assistance. In two programs, the AOTD may give advice and can accept the case for extended representation. In others, the AOTD may provide advice and hold the case for the next scheduled case acceptance meeting. Meetings are held once or twice a week depending on the program.

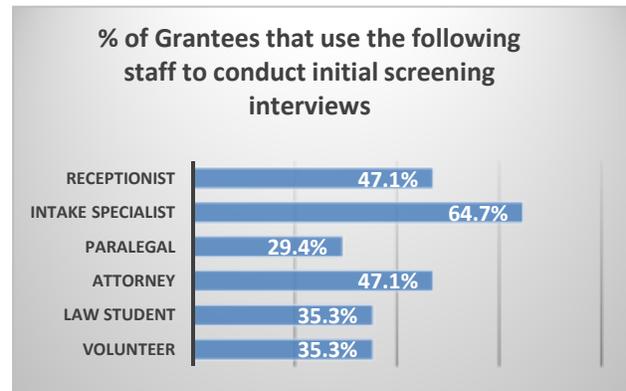
Smaller programs have less flexibility to assign intake specialists to handle phone and walk-in intakes and so, rely more on all staff, including attorneys to handle initial screening.<sup>4</sup>

**Walk-ins.** The degree to which intake is conducted for persons who walk into the offices varies among the programs. Overall, during the intake disposition survey, 8.7% of the intakes were conducted for walk-ins. In contrast, however, walk-ins comprised 27.3% of the intakes conducted at Anishinabe Legal Services, which serves Native Americans living on or near the Leech Lake, Red Lake and White Earth Reservations. Similarly, 19.4% of the intakes at Legal Aid Service of Northwest Minnesota were walk-ins, one half of which came into the Bemidji office. In contrast, LegalCORPS, which uses volunteer lawyers to provide free assistance in non-litigation business law, never has walk-ins.

<sup>4</sup> This is discussed further beginning at p. 18.

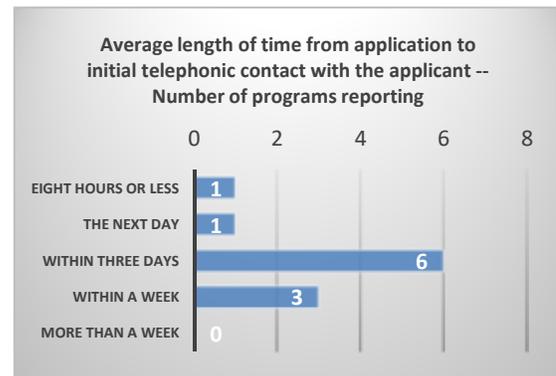
**Advice clinics.** Overall, intake conducted at advice clinics accounted for 7.3% of the intakes throughout the state during the intake disposition survey. In fact, however, only five of the grantees offer legal advice clinics where intake is performed, while the rest do not. Nearly half (47.4%) of the 445 intakes at the Volunteer Lawyers Network (VLN) during the survey period were conducted at one of their clinics. Intakes at clinics comprised 21% of the applications at Legal Assistance of Olmsted County and 14.5% of the intakes at the Volunteer Attorney Project (VAP).<sup>5</sup> Legal clinics at the other two grantees which offer them comprised a small percentage of their intakes: Mid-Minnesota Legal Aid (MMLA) 2.4%, and Tubman 1.6%

**Screening for financial and basic substantive eligibility** in nearly all cases is conducted when the applicant calls or walks into an office. Initial screenings are conducted by a variety of staff positions, depending on the program, with 47.1% using the receptionist and 64.7% relying on an intake specialist. Attorneys are occasionally used by 47.1% of the grantees, more frequently in smaller programs where intake duties were shared by a variety of staff.<sup>6</sup>



**Case management systems.** Nearly two thirds (62.5%) of the grantees record intake information at initial intake in their case management system. Two programs save it electronically, but not in their case management system. One program maintains intake information manually on paper and three record the information on paper and then transfer it into their case management system.

**Online intake.** Thirteen of the programs accept cases through the online intake capacity supported by Legal Services State Support at <https://www.justice4mn.org/a2j/>. Applicants respond to a series of questions online, following which their application is forwarded to the appropriate program for a callback after which the applications are processed the same as other intakes. Only two programs report getting back to the applicant the same or the next day. Six get back “within three days” and three “within a week.” With MMLA and SMRLS, the two programs with the highest volume of intakes, the applicant is instructed to call their intake line, where a special ring marks the call as having originated in the online system.



Slightly more than one-half of the grantees (54.6%) who responded to the survey regarding online intake indicated that it takes about the same amount of time to determine financial and basic substantive eligibility as a regular intake. Others (45.5%) indicated that it takes more time. None saw it as increasing the efficiency of intake. Of the grantees, 36.6% transfer the information from the online intake automatically into their case management system; 27.3% enter it manually; and 27.3% start over with subsequent interviews. While many staff members saw promise in online

<sup>5</sup> A large number of advice clinics are offered to low income persons in Minnesota, a listing of which can be found at <http://www.lawhelpmn.org/walk-in-clinics-and-other-legal-help-clinics>.

<sup>6</sup> See the discussion below at p. 18 regarding the relative efficiency in the use of staff attorneys.

intake, the current system was subject to a number of criticisms during interviews and in comments to the staff survey.<sup>7</sup>

**Intake conducted at off-site locations.** More than three quarters (79%) of LSAC funded programs conduct intake at off-site locations, although the intakes comprise a very small percent of the total for the system. During the intake disposition survey, only 30 intakes (0.8%) were reported from outreach sites.<sup>8</sup> Although off-site intakes are not conducted frequently, grantees reported them to be an essential to key partnerships and to maintaining their presence in the community. Off-site locations included domestic abuse centers, medical clinics (Medical-Legal Partnerships), the Center for Victims of Torture, Immigration Court, Housing Court, Senior Centers, Community Action Agencies, homeless shelters, dental clinics and public housing. They are held as frequently as daily and as infrequently as monthly, with occasional sporadic events, such as veterans’ Stand Downs.

**Intake authorized by others.** Five grantees (26.3%) authorize others to conduct intake for them. Intakes are accepted from domestic violence shelters, HIV medical clinics, small business development centers, reentry projects, a migrant health clinic and immigration and refugee centers. Two are partners in a grant or contract, three accept external intakes to serve populations that are otherwise hard to reach or are isolated, and three authorize intake for high priority issues that might otherwise not be seen.

**Language.** Minnesota is home to a number of immigrant and refugee populations. As a result, people seeking services are monolingual in a wide array of languages. To respond to the linguistic challenge, 10 of the grantees have bilingual staff (52.6%), primarily in Spanish and Somali. Fourteen (73.7%) use Language Line or a similar service and 11 (57.9%) use family members.<sup>9</sup> One uses a video relay service for people who are deaf or hard of hearing.

Language	# of Grantees that encounter	% of Grantees that encounter	Language	# of Grantees that encounter	% of Grantees that encounter	Language	# of Grantees that encounter	% of Grantees that encounter
Spanish	17	89.5%	Chinese	7	36.8%	Cambodian	2	10.5%
Somali	14	73.7%	Korean	5	26.3%	Ukrainian	1	5.3%
Hmong	13	68.4%	Tagalog	4	21.1%	Telugu	1	5.3%
Amharic	13	68.4%	Mon-Khmer	2	10.5%	Creole	1	5.3%
Arabic	12	63.2%	Ojibwa	2	10.5%	Cantonese	1	5.3%
Vietnamese	11	57.9%	Hindi	2	10.5%	Mandarin	1	5.3%
Oromo	11	57.9%	Karen	2	10.5%	German	1	5.3%
American Sign (ASL)	11	57.9%	Nepali	2	10.5%	Yoruba	1	5.3%
Laotian	10	52.6%	Swahili	2	10.5%	Nuer	1	5.3%
Russian	10	52.6%	Tigrinya	2	10.5%	Mam	1	5.3%
French	8	42.1%	Burmese	2	10.5%	Quiche	1	5.3%

<sup>7</sup> The disconnects and opportunities associated with online intake are discussed at greater length below at p. 17.

<sup>8</sup> The number may be low, because off-site intake may not have fallen during the study period. In addition, volunteer attorneys were not asked to fill out the intake disposition survey, so any intakes conducted by them would not have been recorded.

<sup>9</sup> The American Bar Association **Standards for the Provision of Civil Legal Aid** discourage the use of family members as interpreters for a variety of ethical and practical reasons. See, ABA Standard 4.6 on Communication and the Primary Languages of Persons Served.

**Intake procedures for isolated populations.** The online inventory of LSAC funded programs asked about special procedures they use to reach certain isolated populations. Responses show the following:

- **Homebound** – 5 of the programs will arrange for a home visits; 13 provide assistance by the phone, but do not offer special outreach.
- **Mentally ill** – All programs serve persons affected by mental illness, but 7 indicated they will take special steps, when necessary, such as working with a social worker to assist with intake and the provision of representation.<sup>10</sup>
- **Institutionalized** – 7 will visit the institution, if necessary.
- **Culturally/linguistically isolated individuals** – Responsiveness to persons with limited English proficiency is discussed above. One grantee noted the importance of working closely with community organizations that serve isolated communities. One program conducts intake by email for hearing-impaired persons who do not use ASL or relay service.

**Referrals.** The survey of LSAC funded programs asked about the referral policy for applicants rejected after their initial contact with the program or after their application had proceeded to a negative case acceptance decision. The policy of all programs is to provide some form of referral to every applicant who is denied service. Thirteen of the programs (72.2%) provide rejected applicants with the name, phone number and address of a social or legal aid program that might assist them. Two (10.5%) regularly provide contact information and alert the program to which they are referring the individual about the referral. Two others (10.5%) also provide the organization to which they are referring individuals with information about the nature of their issue.

To where initial denials were referred	#	%
A staffed legal aid provider that will conduct its own intake <sup>11</sup>	355	23.8%
Lawyers referral	337	22.6%
A stand-alone pro bono program that will conduct its own intake	276	18.5%
A Court Self-Help Center	192	12.9%
An advice or self-help clinic run by others	192	12.9%
A government agency (e.g. Social Security, DHS)	93	6.2%
An advocacy group, such as a tenants' council	84	5.6%
Non-profit social services	78	5.2%
Public Defender	39	2.6%
On-line self-help	36	2.4%
Direct referral to another legal aid provider where the applicant does not have to go through another intake process	18	1.2%
Other, including private lawyers, low fee panels and lawhelpmn.org	166	11.1%

**Conflicts of interest.** All but two of LSAC funded programs conduct a check for a conflict of interest prior to proceeding with intake. The two that do not, VLN and VAP, rely principally on volunteer attorneys to provide representation, which reduces the concern with conflicts. They rely on the volunteers to check their own firm records for conflicts when they undertake representation. Of the 17 programs that do check for conflicts, twelve (63.2%) rely on the case management system to do so automatically, four

<sup>10</sup> There are complex ethical issues associated with the representation of persons whose mental illness may affect their competency and with the engagement with others, such as social workers, in the representation.

<sup>11</sup> The implications of referrals to other legal aid organizations are discussed below at p. 15.

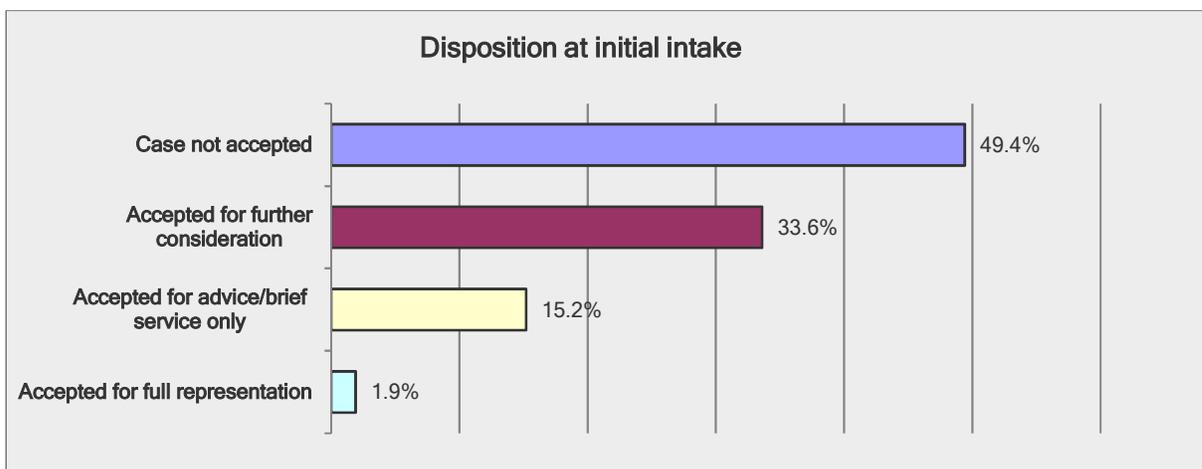
(21.1%) conduct a manual search of their electronic or paper case records and one (5.3%) has its volunteer attorneys check for conflicts in their own practice.

**Full substantive interviews.** Although full substantive interviews regarding applicants' legal problems are not considered by some as part of "intake," they are addressed here, because some take place upon initial contact with the legal aid organization, while some occur later in the process. More than one third (37%) of the grantees (7) conduct the interview at initial contact; 21% (4) call back by telephone; 5.3% (1) do it by appointment on the telephone; and 21% (4) by in-person appointment. Three (16%) may conduct two full substantive interviews, one at initial intake and another if the matter is referred for full representation. Full substantive interviews are generally conducted by an intake specialist, a paralegal or an attorney, or a combination of the three.

**Case acceptance decisions.** A key aspect of the intake process is determination of whether the case will be accepted for representation. Nine of the programs (47%) make the decision in case acceptance meetings, though in most emergencies are responded to immediately. In 4 (21%), the interviewing attorney decides, in one other (5%) a senior or supervising attorney decides and in two others (10.5%) the Director of litigation decides.

Case acceptance meetings vary in length and in who participates. Some were described as "hours long" and others are held to no more than an hour. Programs that use case acceptance meetings described them as having a training aspect for inexperienced lawyers. Nevertheless, they can delay notification to the person seeking service of the disposition of their application for up to a week and involve a significant amount of aggregated attorney and paralegal time spent reviewing the cases.

**Denial of service.** Of the 3649 applications for service during the intake disposition survey, 1802 (49.4%) were rejected at initial intake. Another 1226 (33.6%) were accepted for further consideration in the programs' case acceptance process. The survey did not ask for a breakdown of those that were accepted and rejected at that juncture. At initial intake 553 cases (15.2%) were accepted for advice and brief service.



Of the cases that were not accepted at initial intake, nearly half (49.6%) were rejected because they fell outside of the programs' priorities or case acceptance guidelines. An additional 9.5% were rejected because they fell outside of LSC or other funding restrictions, resulting in a total of 60.1% of the applicants who were denied service because they presented cases that the programs would not handle.<sup>12</sup>

Reason for Denial of service	#	%
Outside of program priorities or case acceptance guidelines	916	51.1%
Over income	190	10.6%
LSC or other funding restriction (criminal, fee generating, prisoner, etc.)	171	9.5%
Not a legal problem	137	7.6%
Out of service area	126	7.0%
Appropriate for self-help	51	2.8%
Immigrant status	49	2.7%
Conflict of interest	30	1.7%
Without merit	14	0.8%
Other	118	6.6%

**Assistance limited to advice.** Respondents to the inventory of program policies and practices were asked who makes decisions regarding clients whose assistance will be limited to legal advice. Twelve of the programs (63%) let the advocate or unit to which the case is assigned make the determination whether to limit representation to advice. Five (26%) have a telephone advice or hot line that provides advice in such cases. Ten (53%) also utilized advice clinics.

How limiting assistance to advice is determined	#	%
We let the advocate or unit to whom it is assigned make that determination and provide the advice	12	63.2%
We have a telephone advice or hotline that provides advice in such cases	5	26.3%
We have a special unit that provides such advice	0	0.0%
We have advice or self-help clinics	10	52.6%

<sup>12</sup> The implications of intake processing so many cases that are out of priorities are discussed below beginning at p. 15.

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## ANALYSIS OF CURRENT SYSTEM (WHAT IS) – STRENGTHS AND DISCONNECTS

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The above description of the somewhat complex matrix to access services discloses some important strengths that should be preserved as any change is adopted. It also reveals some significant disconnects that can and should be addressed to increase access, to foster greater efficiency and to use resources more effectively. It also highlights risks that should be considered in undertaking changes to respond to the disconnects.

### **Strengths**

This assessment was not designed to examine the quality of legal work or various systems to support that legal work beyond those associated with the intake systems and related processes. Nevertheless, interaction with staff and managers of programs that were visited in the course of this study confirmed the long-standing reputation of the Minnesota programs for a deep underlying strength grounded in the quality of representation and commitment to a high level of service to clients.

**CAPACITY FOR FLEXIBLE RESPONSE TO THE SPECIFIC NEEDS OF LOCAL COMMUNITIES AND THEIR DIVERSE POPULATIONS AND CIRCUMSTANCES.** The most immediate and obvious strength of the current systems for intake is their capacity for flexible response to local needs across the state. It states the obvious to note that Minnesota has vastly different regions from large urban communities and suburbs in the seven-county metropolitan area, to medium-sized regional centers, to extremely rural areas, to Native American reservations. In recent decades, the State has also experienced a dramatic expansion in the number of immigrant and refugee populations in many parts of the state. The fact that legal aid programs encounter the 33 different languages cited above<sup>13</sup> stands as dramatic testimony to the challenges of such cultural and linguistic multiplicity.

In response to the diversity across the state, programs funded by LSAC have over time developed vibrant connections and partnerships that enhance their presence in the community and facilitate their capacity to identify and respond to issues facing low income individuals and families as well as the low-income community overall. A senior manager in a rural office framed it this way: “. . . *special outreach to homeless shelters, senior centers, hospitals, DV shelters, churches, and other locations help to reach some of the special populations listed above. Additionally, partnerships with sexual assault centers and homeless outreach workers help to reach at-risk youth and other homeless people.*”

Another noted: “*We go to locations such as homeless shelters and DV shelters to do intake. ... We have second language speakers and members of the immigrant community on staff. ...Our offices have multiple outreach sites in rural areas and have developed medical legal partnerships [that] further expand the reach of our services. ...We will go to nursing homes and homes of seniors and others who can't access the normal means of receiving services. We partner with Catholic Charities and others who have relationships with the undocumented community.*”

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<sup>13</sup> See the Table at p. 5.

A support staff member in a medium size program located in the seven-county metro area echoed the sentiment: *“I believe what makes our legal services more accessible to some of these populations is due to the other services we offer. We offer youth programming and are present in youth drop-in centers and middle and high schools, so as youth staff are offering youth programming, they are also aware of our legal services and how to connect their clients or audience to get screened for legal services. ... All of our staff go through crisis intervention, de-escalation, and safety planning training so the fact that our staff would be able to support someone who may become triggered is also a way that makes our services accessible because then we are a welcoming and safe environment for them to be able to learn about and be screened for our services. Another noted: “We have a strong network between schools, community centers, women’s advocates, Dr. clinics, mental health facilities and advocates for our immigrant population.”*

**AWARENESS OF LOCAL CONDITIONS.** Staff members involved in intake and in serving programs’ clients have also developed an understanding of local mores and culture as well as the operation of courts, government agencies and social services that directly affect legal problems and how they are resolved. As noted in one survey comment: *“The system allows lawyers to speak with people who may seem to just need advice to be aware of what particular landlords are doing. In rural offices, if we hear the same landlord a few weeks in a row, we know that landlord is a problem and often let screening staff know that cases with this particular adverse party need to be handled differently. If [we] see a problem recurring in a limited geographic area, we may target outreach or education efforts to particular housing developments or non-profit agency staff. The case may still be advice, but we develop a systemic response.”*

**ADDRESSING THE NEEDS OF SPECIFIC POPULATIONS AND LEGAL NEEDS.** Many of the smaller programs that target specific populations – such as farmers, Native Americans or domestic violence victims; or issues – such as immigration or rights under the Indian Child Welfare Act – have developed ways to operate that facilitate their capacity to reach the targeted population and address the chosen issue that might otherwise get lost. Most LSAC funded programs also have multiple funding sources, some of which impose special grant requirements that call for special intake procedures. Two programs for example have grants from the Office of Victims of Crime of the Department of Justice that fund special “wrap-around” services for certain victims of domestic violence. Anyone served under the grant needs to be flagged immediately at intake for particular treatment, if they return for additional help.

**SELF-HELP MATERIALS AND ON-LINE RESOURCES.** Minnesota has exceptional on-line, self-help materials that are available in multiple languages. The webpage<sup>14</sup> is easily navigable and links to information covering a broad array of issues. In addition, there are multiple avenues to prepare pleadings, letters and other documents covering a variety of needs. Legal Services State Support, which is responsible for the materials, anticipates redoing the document assembly tool to make it more user friendly and robust, but in its present form it is already impressive. It is also the gateway to online intake discussed elsewhere in this report.<sup>15</sup> The website also offers an online chat capability to help users navigate to find fact sheets and forms, as well as links to the Minnesota Legal Advice Online (MLAO) website where volunteer attorneys answer legal questions remotely.

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<sup>14</sup> <http://www.lawhelpmn.org/>

<sup>15</sup> See the discussion at p. 4 and p. 17.

## **Disconnects**<sup>16</sup>

Notwithstanding the many strengths of the legal aid system in Minnesota, there are disconnects in the intake and access systems that are shown graphically on the process map in the following two pages and are described in the following pages.

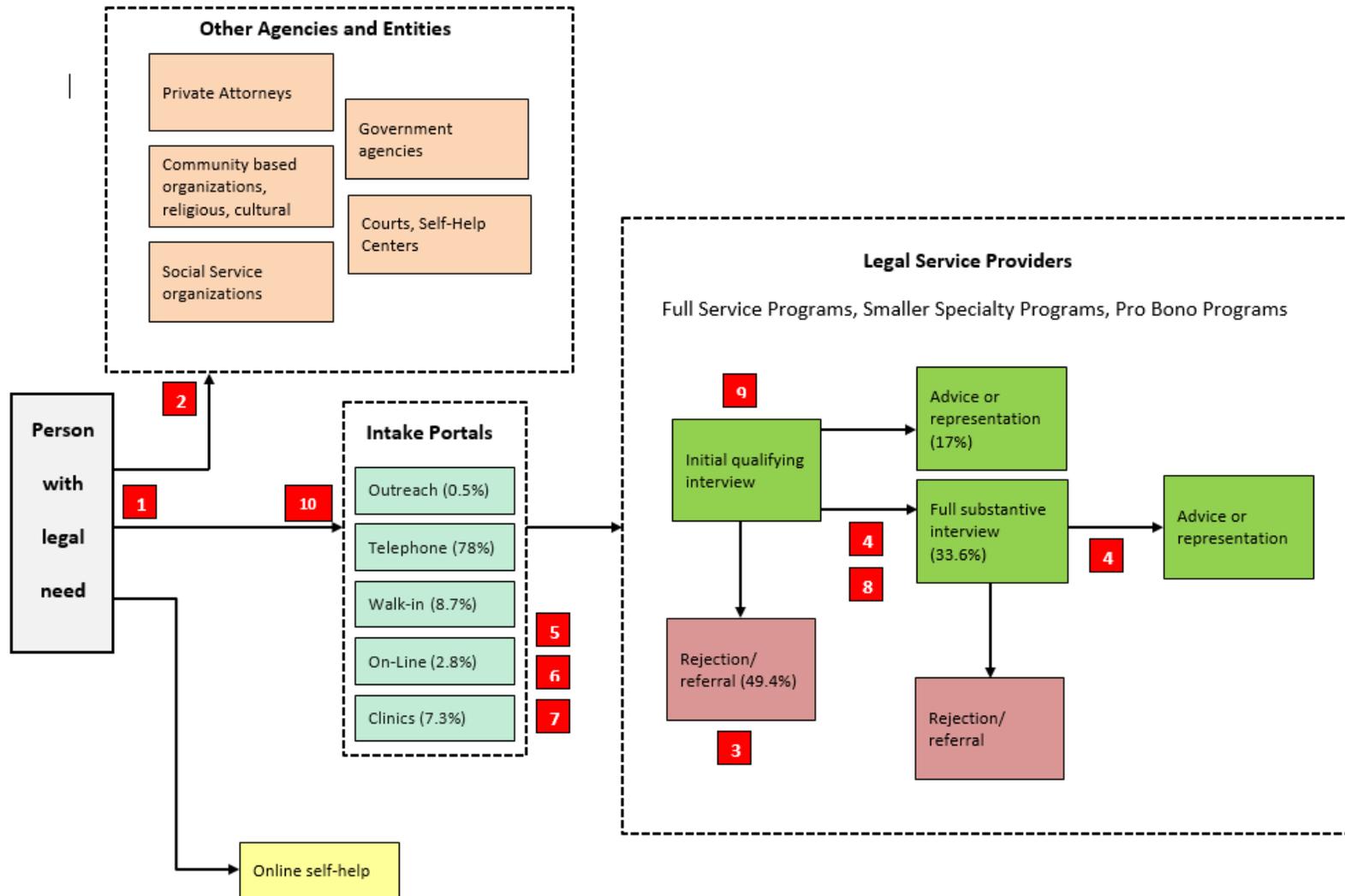
**(1) LACK OF KNOWLEDGE ABOUT LEGAL AID.** The first disconnect is the simple fact that many people who would be eligible for legal assistance from one of the state's providers do not know that it exists. Participants in one client-eligible focus group in a small rural community were asked: "*Where do members of your community and family think of going when they have a legal problem?*" The unanimous reply was: "*Not legal aid.*" The reasons given were both a general lack of awareness of the services and an assumption on the part of many that "free" legal services by definition would be inferior. Low income persons who participated in the client focus groups uniformly affirmed the general lack of awareness of the existence of legal aid. Nearly all of the staff and managers interviewed who expressed an opinion on the subject stated their general agreement with the focus groups' observations about the lack of awareness of legal aid services. Of the 76 suggestions in the staff survey "*...about how to facilitate access for persons in need of legal assistance,*" 20% (15) suggested greater marketing and publicity.

It was pointed out in comments to the Draft Report on the Intake Study that lack of knowledge about legal aid involves more than simply not knowing about the availability of legal aid services and encompasses a broader lack of knowledge about law and the legal system. It was noted that many low-and moderate-income persons do not recognize issues they confront to be legal problems and so do not even consider seeking assistance for problems that might have a legal remedy. As noted in the comment, there are a number of national studies that confirm this observation. Both are aspects of the disconnect that prevent people from even seeking the services of the legal aid system that might respond. The general lack of knowledge about the law, the legal system and broad access to justice issues also implicates a broader communications challenge than imparting information about the availability of services. The appropriate response is outside the scope of this report, and should be considered in the Justice for All Planning Process currently underway.

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<sup>16</sup> "Disconnects" in the parlance of Business Process Analysis are anything that negatively impacts the effectiveness or efficiency of a process. Business processes are analyzed from the perspective of whether they are "value added," that is, that they further the accomplishment of what the external customer – in this case applicants/prospective client – wants. They are "value enabling" if they allow the legal aid system to work more effectively or efficiently for the prospective client. "Non-value added" activities include anything that creates delays or results in rework.

## Current State ~ Process Map



Disconnects:

1. Lack of knowledge about legal aid (lack of awareness that programs and their services exist; perception free service is inferior)
2. External bounce (contacting and being referred among social service organizations, governmental agencies, courts and others before being referred to legal aid, if ever)
3. Within system bounce (applicant contacts and is referred to successive legal aid programs, none of which provide service)
4. Within program bounce (multiple contacts within program before application decision reached)
5. Online intake does not collect all information needed for to determine financial and substantive eligibility
6. Information collected by on-line intake can be inaccurate or incomplete
7. Applicant is not available when callback from on-line intake is made
8. Timing of case acceptance meeting meetings delays response to applicant
9. Attorneys spend time on initial intake duties that may not be not the highest and best use of their time
10. Intake not available for potential applicants who cannot seek assistance during business hours because of work or otherwise.

**BOUNCE.**

A second set of disconnects involves the phenomenon often referred to as “bounce,” which involves persons seeking assistance contacting numerous agencies and entities, being referred from one to the other before getting a clear answer about whether services are available. Persons subjected to bounce often give up in frustration before finding needed services or being told definitively services do not exist, so that they can make plans accordingly. The degree to which the existence of legal aid is not generally known increases the potential for external bounce where potential clients would be referred between non-legal aid providers. A second form of bounce can happen within the legal aid system, in which an applicant reaches a legal aid organization, but not the one that is appropriate to provide services and is given a number to call another, usually having to repeat the intake process. A third form of bounce happens within a legal aid organization where an applicant may be referred from one staff member to another for successive interviews before a decision is made regarding their application and they are either served or referred. Each of these forms of bounce is discussed in the following pages as a separate disconnect.

**(2) External bounce.** To get an indication of bounce prior to applicants reaching legal aid, the intake disposition survey asked for each application whether the “*applicant [had] sought assistance for this problem elsewhere?*” Overall, 31.5% (1153) of the applicants has sought assistance somewhere else before coming to legal aid. Approximately one-half (47.4%) had not, and 21.1% would not say or the intake worker did not find out.

Where help had been sought	#	%
Another legal aid program	316	27.7%
A social services organization	281	24.6%
A government office	247	21.6%
The courts	147	12.9%
Private attorneys	94	8.2%
Lawyers Referral	86	7.5%
Internet	22	1.9%
Other, which included family and friends, law enforcement, medical services, legal clinics, self-help centers, statewide hotlines, law libraries, schools and universities, churches, the public defender and 211	124	10.9%

It is interesting to note that only 1.9% (22) of the applicants had sought help on the Internet and only two applicants indicated they had been referred by 211.

Among the most frequent places where previous help had been sought were a social service organization (24.6%) or a government office (21.6%).<sup>17</sup> Having sought help from these sources is not in itself a sign of bounce. The applicant might, for instance, have received services from a social services organization that referred the individual to legal aid. Similarly, some applicants might have had dealings with a government office that in turn suggested that they seek help from legal aid.

On the other hand, there is also a strong inference that applicants had futilely sought assistance from those entities prior to either being referred to legal aid or having through other means found its contact

<sup>17</sup> Referrals from other legal aids are discussed in the following section.

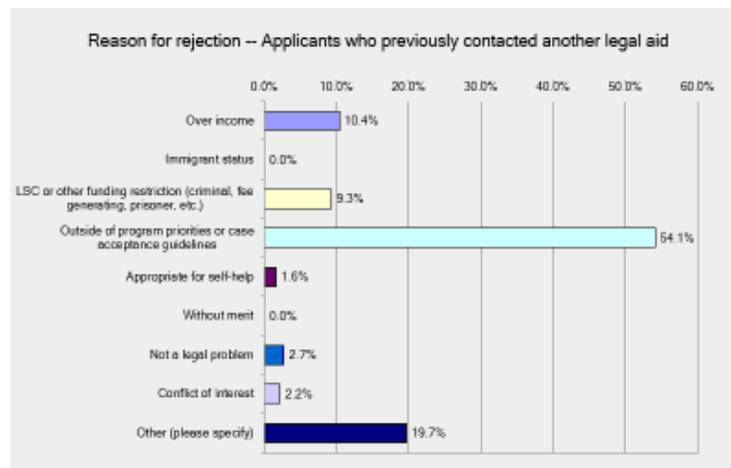
information. The general lack of knowledge about the existence of legal aid noted as the first disconnect above, lends credence to the inference. Although their perceptions were anecdotal, many of the staff members interviewed in the course of the Study shared the view that external bounce was a common phenomenon. Some comments to the staff survey also supported that view:

- *“We have many calls referred to us just because they are seniors. Their legal issue however is not in the area of law we serve. Caller and employee time are wasted having to send back to original call location or referring elsewhere.”*
- *“When I travel to other agencies that serve low-income people and present about our services, many service providers seem to not know where to start when their clients have legal questions, so I see the need for that information in our community.”*

**(3) Bounce within the legal aid system.** A second area where it appears that bounce occurs is within the legal aid system itself. There is a strong view shared by some in legal aid that bounce does not occur once an applicant gets into the system. One staff member commented in the survey: *“I understand the concern about the ‘bounce’ for clients to be referred to different organizations over and over before finding one that can help them - but I find that happens prior to them calling legal aid. Once they call an office (and I’ve worked at two completely different programs by now) that bounce simply ends.”* Another said: *“The majority of applicants who ‘bounce’ choose to do so. They’re rejected from a program, desperate for help, and call anyone they can.”* Yet another commented: *“Concerning the ‘bounce’ question: Most applicants want an immediate response or assurance that their problem is going to be looked at; they want to talk to a live person; if they cannot get help from the program where they reside, they often call other legal services providers trying to get help even if they do not reside in that service area or may have already applied for services through the proper program.”*

Notwithstanding these views, data gathered in the Study demonstrate that internal system bounce does occur. More than a quarter (27.7%) of applicants for service who had sought prior help with their problem indicated they had sought assistance from another legal aid program. Data from the intake disposition survey indicate that few of the multiple contacts with legal aid are – as suggested in the comments above – simply frustrated applicants casting about in desperation while awaiting disposition of their initial application and calling another legal aid organization outside of where they reside. For all applicants during the intake disposition survey, 7% were rejected because they were outside of the program’s service area. That number was actually lower – 5.4% – for applicants who had previously contacted a legal aid program.

Moreover, if bounce stopped once an applicant got into the legal aid system, it would be expected that most persons referred from one legal aid organization to another would be accepted by the program to which they were referred. In fact, however, 58.6% (185) of the applicants who had previously contacted one legal aid program had their case rejected by the second program, a *higher* overall rejection rate than the 49.4% rate for all applicants. The 63.4% (116) of those rejections that were because the applicants’ issues fell outside



of the second program's priorities or involved impermissible work is comparable to the 60.6% rejection rate for the same reasons for *all* applicants during the intake disposition study. Notably, 41.1% of applicants rejected by a second legal aid program they had contacted were again referred to another legal aid or pro bono program after denial.

The fact that nearly two thirds of the applicants referred from one legal aid program to another were rejected because they fell outside the second program's priorities indicates that referral was made without the referring organization knowing whether the case was one that fell within the type of case handled by the receiving organization. The lack of knowledge about the cases that other legal aid organizations will handle was noted in comments to the Staff Survey.

- *"I do think it would be helpful for legal aid programs to share what their priorities are and what types of cases they take for full representation. For example, we have heard feedback from clients that we have referred to other legal aid programs that they will not help because they have a divorce with no children. It would be helpful to know that before we make the referral so we don't refer cases we know they won't accept."*
- *"A more formal referral system would be helpful, rather than just providing the contact information for a client to follow up with other programs."*
- *"There should be a clear process for referral of clients between programs."*

Another area that was identified as problematic involves referrals between programs where the client is in one part of the state and the case is venued in another. Several comments to the staff survey noted the issue, which was raised as well in several face-to-face interviews. The comments aptly describe the problem and the non-value-added delays to potential clients that result:

- *"One challenge is what happens with cases that are venued in another county. It varies a lot whether other programs will take them."*
- *"Transfers between programs often occur when the potential client lives in one program's service area, but the case is venued in another program's service area. Currently, the applicant is directed to the program where they live to apply for services. The program where the potential client lives then determines if the person is financially eligible and if the case fits the program's case acceptance priorities. The program where the person lives then refers the case to the program where the case is venued. The second program then determines if the person is financially eligible and if the case fits the 2nd program's case acceptance priorities. This all takes time. It would be more efficient just to send the potential client directly to the program where the case is venued."*
- *"The process for referring clients to other offices when they live in one county but have a case venued in another county is pretty cumbersome, and I imagine that improvements to that type of case could easily be made, speeding up the process by which those clients get help."*

**(4) Internal Bounce within programs.** Although the Study of intake within the legal aid system gathered considerable data about how each LSAC funded program conducts intake, it was not designed as an evaluation of the effectiveness of each program's intake process. It did, however, uncover some evidence of bounce within individual programs. One comment to the staff survey, for instance, said the following: *"...it is important that multiple staff do not handle the intake before it's given to staff for a full representation. This wastes staff and client time. For example, clt calls. Talks to intake for initial screening. Talks to atty for a/o [advice only]. Realize it should go to rep. Is sent to supervising atty. Is sent to local atty.*

*Is sent to paralegal for calling clt to follow-up with client. Need to reduce all the transferring before representation.”* In another instance, it was noted in the face-to-face interviews that an applicant who calls the wrong office within the same program will be given the number of the proper office where they have to wait in the queue again to speak to an intake worker in that office.

**(5, 6 & 7) ONLINE INTAKE.** An online intake capacity has been developed by State Support and is used by 13 of LSAC funded programs.<sup>18</sup> It holds great promise as a portal of entry into the legal aid system, particularly for persons who because they are working, or for other reasons cannot seek assistance during normal business hours. As it currently operates, however, it was roundly criticized by many, including those who strongly support the concept.

Three disconnects were identified with the online intake system as it now functions. 1) It does not collect information that is needed to process the application, which frustrates intake workers and occasionally annoys applicants who feel they have already provided information they are being asked about. 2) From the applicant’s standpoint, this is perceived to be non-value-added rework. 3) It is often difficult to reach the applicant to follow up on the application, creating non-value-added delay.<sup>19</sup>

As one respondent put it in the online inventory of intake practices: *“The information that is collected is too vague so that we aren't collecting too much because it could be a conflict and most of the time it is inaccurate because the applicant doesn't understand the questions. I find that the only thing Online intake helps with is the basic contact information, name, address, phone number, DOB, SSN, citizenship, etc. The rest of the information has to be gone over again.”* A staff survey response suggested that it should *“...ask more of the questions that are in the application, such as describe your issue. Clients get annoyed thinking they already completed the app when we actually need more information.”*

The apparent lack of specificity in the questions results in some intakes being forwarded for applicants who are over income or whose issue falls far outside of what the program would handle. One of the strengths of the online system may be a root cause of another weakness. Online intake offers applicants access during non-business hours which they might not otherwise have. Callbacks, however, are made during business hours, the very time during which the applicant is not available.

Some concerns were expressed in comments to the Draft Report on the Intake Study regarding the intrinsic value of online intake as a part of the intake process.<sup>20</sup> One comment opined that online intake is *“impersonal and lacks dignity and respect that low income people in crisis deserve”* and *“will only further the disconnect between people in need and available resources.”* Another expressed a concern that many potential clients, particularly Native Americans, *“would rather create (or already have) a personal connection with a telephone call or in-person meeting,”* noting *“research on the culture of poverty . . . backs this relationship-based value system.”*

The client focus groups that were conducted as part of the data gathering for the Intake Study found that some participants, including a tribal member, actually expressed a strong preference for online over other

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<sup>18</sup> See the description of online intake at p. 4.

<sup>19</sup> The Recommendation that office hours be expanded to accommodate otherwise eligible persons who work during normal business hours should help alleviate this problem. See p. 22.

<sup>20</sup> See the discussion at p. 24 recommending development of an online triage and channeling system to be coupled with a telephonic capacity in a later phase.

intake methods. Two factors appear to underlie this – to some – surprising preference. The first is that some people find it more comfortable to disclose facts about their life that they find discomfiting with the personal anonymity that accompanies online interactions. The second is the ability to connect at any hour of the day or week.

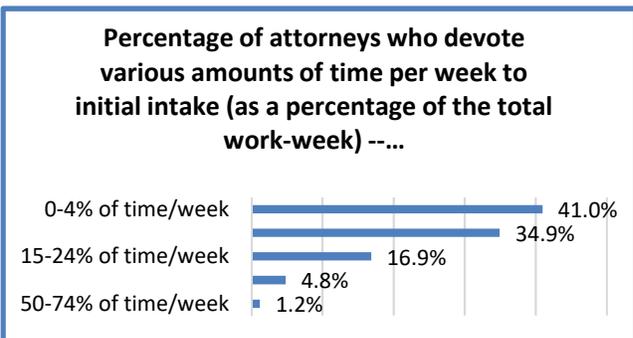
It is true that some persons seeking assistance encounter significant barriers to using online intake, such as lack of access to a computer, discomfort with technology and uncertainty about the process. For that reason, it should never be the sole means by which intake is offered. But, aversion to online intake is not a universal reaction and it is appropriate that online intake should be an available option for persons who prefer it, so long as the disconnects found in the study are addressed.

**(8) DELAY IN GETTING BACK TO PEOPLE.** According to the data gathered in the 10-day intake disposition survey approximately one third of applicants are tentatively accepted for further consideration at initial contact. In most cases, that is so further consideration can be given in a case acceptance meeting, which nine of the LSAC funded programs use to some degree. Case acceptance meetings are held weekly or biweekly with the result that applicants may not hear what is happening with their application for more than a week.

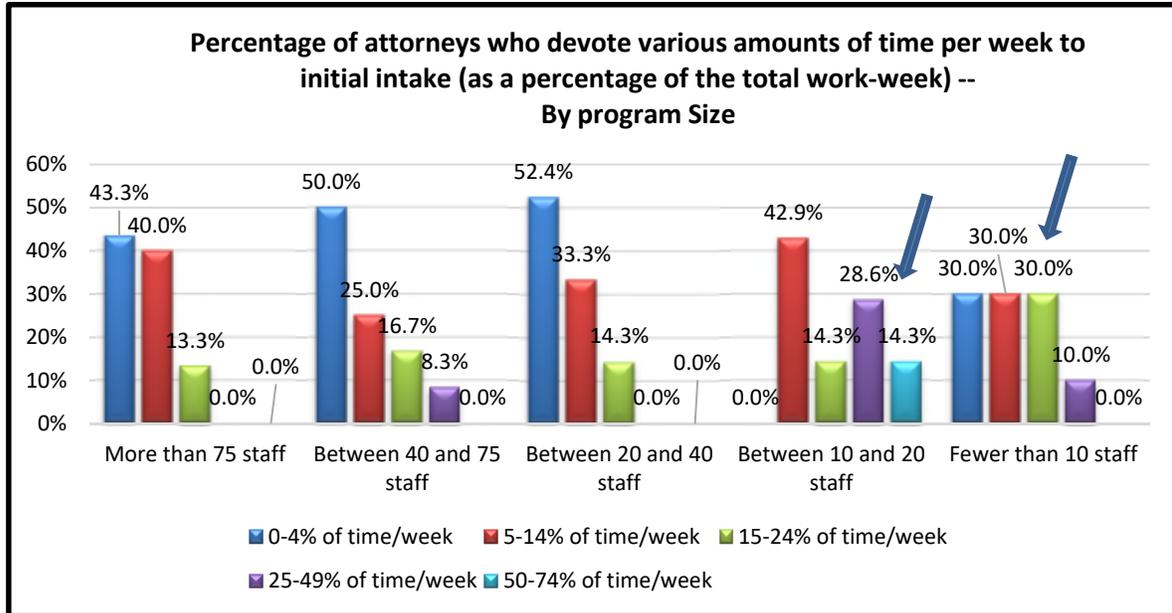
Other delays in smaller programs are occasioned by the challenge of responding to intake requests while having many other duties to accomplish. One staff member from a small program in the staff survey observed: *“It often times takes days (sometimes longer) to get a response from the people making these determinations. I feel it is a disservice to the clients to wait so long just to get an answer about if our program can help them or not.”* Another, also in a small program noted: *“Paralegals are often more able to answer in a timely manner, whereas those attorneys who have regular court schedules, have a harder time getting in touch with clients in a timely manner. (timely to me, means within 3 days).”*

**(9) INEFFICIENT USE OF STAFF.** Intake is one of the most important functions a legal aid organization engages in. It is the face of the program to the community; it determines what the strategic focus of the program is by determining what legal work is undertaken; and it creates the tone for the attorney-client relationship that follows once a case is accepted. There many aspects of intake, however, that do not call for involvement of a licensed attorney. One measure of the efficiency of intake systems, therefore, is the degree to which it makes the highest and best use of the attorneys’ time and does not involve them in duties that do not require a law license. The survey of staff asked respondents to estimate the amount of time they spend on various duties associated with intake. The data input were only estimates and not based on actual time records. Nevertheless, they do provide a useful indication of how staff are used in various functions.

As the accompanying chart shows, in all programs, 41% of the attorneys and supervising attorneys who responded to the survey spend a minimal amount of their time (0 to 4%) on initial screening activities, such as determining financial eligibility and basic substantive eligibility (criminal versus noncriminal). Another 34.9% spend between 5% and 14% of their time and 16.9% spend between 15% and 25%.



Demands on attorneys' time for initial intake duties is higher in programs with smaller staff, which have less flexibility to have some staff specializing in intake duties. Thus, for example, the accompanying chart shows that while 30% of the staff attorneys working for a legal aid organizations with fewer than 10 employees devoted minimal time to initial intake (between 0% and 4% of their time), 60% spend up to a



quarter of their time. The problem is more acute for programs with between 10 and 20 staff members. For those programs, every staff attorney is involved in some way with initial intake, with none reporting that they devoted minimal time to those duties (0 to 4%). More than one quarter (28.6%) devoted up to half of their time to initial intake responsibilities, with another 14.3% spending between one half and three quarters of their time.

The staff survey did not inquire into the likely cause of such a dramatic demand on the time of staff lawyers for initial intake in programs with between 10 and 20 staff. The greater demand on their time for such duties than occurs in programs with 10 or fewer likely results from the fact that the intake demand for some small programs is relatively low because they target specific populations. Thus, for example, the Farmers Legal Action Group had 7 intakes, Estate and Elder Law Services had 17 and the ICWA Law Center had 38 during the ten-day period that the intake disposition study was conducted. The slightly larger programs conduct regular intake across a broader spectrum of potential clients and services, which generates greater intake demands.

Comments from staff members of small programs suggest a root cause:

- *“We have one phone number ..., which means that everyone hears the phone when it rings. In general, the intake staff, legal assistant, or volunteer/intern will attempt to answer the phone first, but anyone from our office may answer the call. If, in the initial contact, it appears the person might qualify for our “in-house” staff or extended volunteer services, we will collect their contact information for a more substantive call-back . . . .”*
- *“We have a small office, and the attorneys are often responsible for taking and returning calls that come in on our intake line.”*

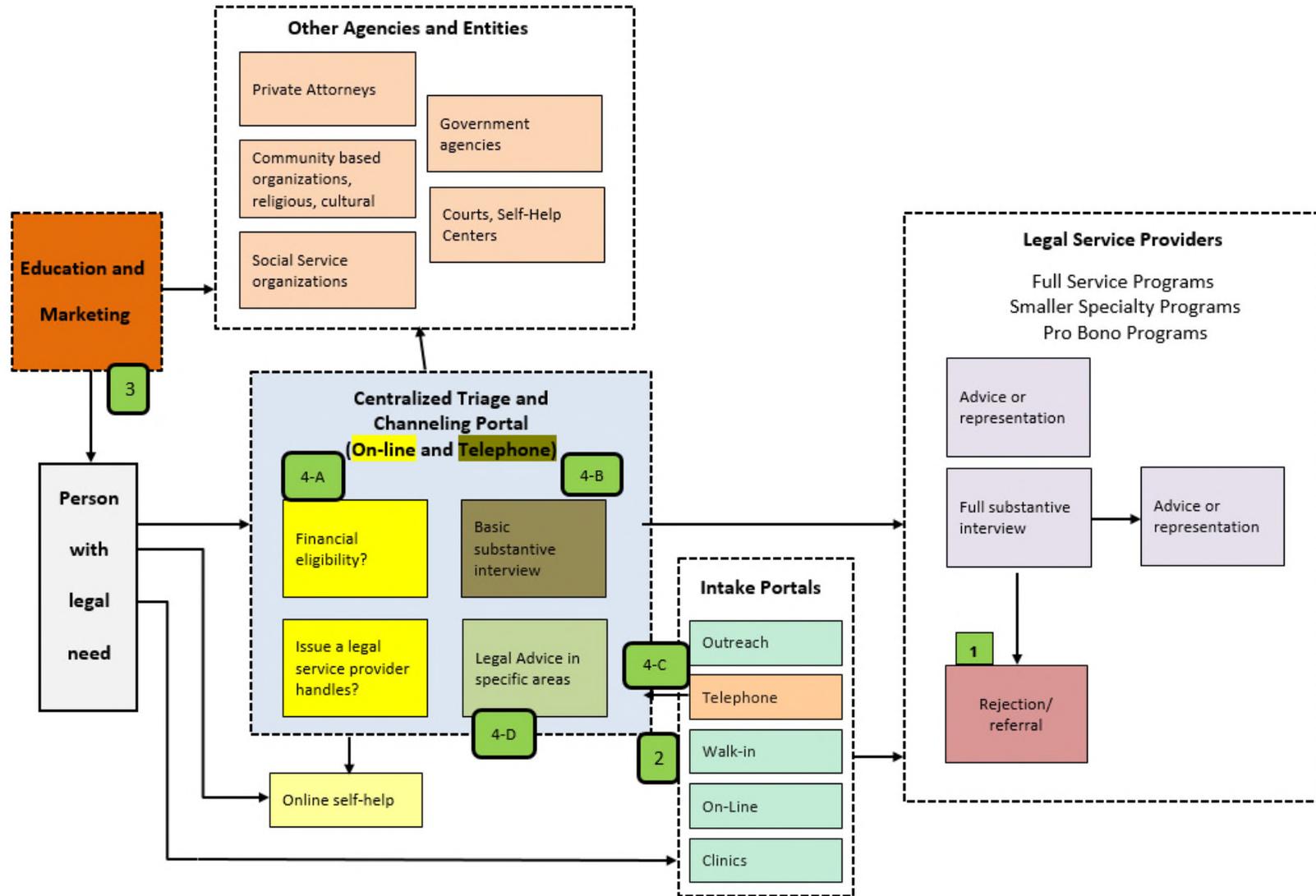
- *“We take many intake requests over the phone, which disrupts the person's work who is answering the phone. It is often difficult to put people into a queue to wait for an intake when they call and are in the middle of a crisis.”*
- *“Our paralegal spends a lot of time doing secretarial work and is constantly interrupted while she is trying to do her paralegal work by intake calls and walks ins.”*
- *“We have too few people being asked to do too much.”*

Larger programs are also affected – though not as dramatically – with 25% of their lawyers spending between 15 and 50% of their time on initial intake. A staff attorney in one program commented: *“When I am the attorney expected to respond to intakes, my day may be interrupted at any time by a client emergency. Sometimes the emergency is client-defined. Sometimes the emergency exists unbeknownst to the client. This does not take into account the fact I have to work other cases at the same time. It is a very chaotic way to handle client intake.”*

**(10) LACK OF AVAILABILITY FOR PEOPLE WHO WORK OR OTHERWISE CANNOT SEEK HELP DURING REGULAR BUSINESS HOURS.** LSAC funded programs set their own hours for intake, which vary significantly among the programs – and in some cases among offices within the same program. Hours of availability range from normal business hours to a few hours a day. Six of the programs conduct intake during normal business hours, while three are available between five and six and one-half hours per day. Six are available for intake fewer than four hours per day.

Eight programs or offices within a program are not available during lunch. The lack of availability for intake during the lunch hour exacerbates a disconnect that exists throughout the system: that is, is relative inaccessibility to persons who work and cannot call or be reached during normal working hours. A significant percentage of low-income persons are individuals who hold one or two low-paying jobs and who cannot take time during their workday to call an intake line and similarly are not available for callbacks and follow-up.

### Future State ~ Process Map



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## RECOMMENDATIONS

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The description of the combined intake systems among LSAC funded programs shows a matrix of portals through which people seek legal aid that should not be dismantled in a system that honors a central value of “no wrong door.” Nonetheless, fundamental changes are in order to supplement and expand the system’s accessibility and to address the disconnects identified above. To address these disconnects, three sets of recommendations are offered, which are reflected on the Future State Process Map on the preceding page:

- **Immediate adjustments** to develop a clear referral policy among LSAC funded programs and to expand intake hours for persons who work or otherwise cannot access services during business hours;
- **Ongoing marketing and publicity** to increase knowledge about the law and the legal system and to direct people with legal needs to the appropriate source of help;
- Staged development of a centralized capacity through which persons with legal needs can access the system and be transferred to an appropriate source of help, or be told at the earliest opportunity if no assistance is available (**Triage and Channeling**).

### **IMMEDIATE ADJUSTMENTS**

**(1) DEVELOP A CLEAR REFERRAL POLICY AND SUPPORT MECHANISM.** Two disconnects identified in this report can be addressed immediately. Those disconnects are the referrals in the current system between legal aid organizations where the program to which the matter is referred does not provide the assistance that is needed. The second is the apparent lack of clarity regarding referral cases where the applicant is accepted as a client in one service area, but the case is venued in a court in a different service area.<sup>21</sup> To address these disconnects, a policy should be developed and agreed to among LSAC funded programs regarding referral of matters, including where the client and the venue of the case are in different jurisdictions. The policy should establish clarity regarding those cases where it is agreed *a priori* that the case will be handled in the jurisdiction where it is venued. If the matter will not be handled in the second jurisdiction, that should be settled prior to acceptance of the case by the organization to which the client applied.

There should also be an up-to-date database maintained of the case acceptance standards of each LSAC funded program, available to all programs to minimize referral of applicants to other legal aid organization that will not serve them.

**(2) EXPAND INTAKE HOURS AND SERVICES.** A Centralized Triage and Channeling System is recommended in the following pages that would be accessible and responsive to potential clients, particularly those who work, who can only access systems that are available after hours and on weekends.<sup>22</sup> As the Centralized Triage and Channeling System is being developed, however, an immediate change should be made in existing intake avenues, so that all programs offer intake during the lunch hour and offer evening and

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<sup>21</sup> Both these disconnects are discussed beginning at p. 15 **Error! Bookmark not defined.**

<sup>22</sup> Recommendations regarding Centralized Triage and Channeling begin at p. 24.

weekend hours on at least a limited basis, unless the staff is too small to make such arrangements possible.

**(3) MARKETING.** The disconnect that results from the lack of awareness of the existence of legal aid services and how they can be accessed prevents many potential users of the services from ever seeking them. As noted earlier, there are two aspects of the lack of knowledge about legal aid. The first, which is directly pertinent to this Study and Report, involves lack of knowledge about even the availability of services and how to access them. The second involves a broader lack of awareness of the law and the legal system, of what constitutes a legal problem and of the remedies available to respond.<sup>23</sup> Publicity about this latter set of issues is also tied up in the current need to communicate to the general public about the importance of publicly funded legal aid at a time when its value is being questioned in some quarters.

A comment on the Draft Report argued for the urgency of undertaking a marketing strategy immediately, asserting that *“the need is too urgent to delay the outreach and education needed to reach vulnerable populations with information about their legal rights and remedies. Only a fraction of the whole number of Minnesotans experiencing poverty are reaching out for legal help at all, and of those, three-fifths are turned away already.”* Recognizing that LSAC funded programs could not easily absorb the increased demand that might result, the commenter observed that any increase in numbers seeking assistance could be handled by *“. . . pro bono networks, court-based self-help centers, online and telephonic resources, alternative dispute resolution providers, specialty law clinics, law libraries, and more.”*<sup>24</sup>

The timing of marketing efforts is tricky. On the one hand, as a triage and channeling capacity is developed, it will be important to advertise the web address and the telephone number to access it. Such publicity will perforce have to wait until at least the online capacity is in place. On the other hand, there is an urgent need to communicate about the value of legal aid and other forms of legal assistance and a strategy arguably needs to be implemented soon – independent of the need to advertise how to get into the system through a newly emerging centralized triage and channeling system.

The challenge suggests a two-pronged approach. Minnesota is engaged in a Justice for All Planning Process under a grant from the National Center for State Courts; a process that involves a comprehensive look at all aspects of the state’s access to justice capacities. The JFA Process is the appropriate place in conjunction with LSAC for consideration of a broader marketing strategy to be undertaken as soon as practicable. Second, that marketing strategy should be organized with the expectation that, at the appropriate time, it will promote awareness of the centralized triage and channeling capacity and how to access it. Marketing regarding the triage and channeling capacity, however, should not be undertaken until it is designed and tested to avoid exacerbating the disconnect identified in this Study, which is the high percentage of people who do succeed in contacting the legal aid system, but who are frustrated in getting the help they need promptly and efficiently. Increasing demand resulting from effective marketing without the capacity to accommodate that increase with a meaningful response will both increase bounce,

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<sup>23</sup> This disconnect is discussed more fully beginning at p. 11.

<sup>24</sup> The Intake Study did not examine how these services operate in Minnesota, with the exception of pro bono programs that are recipients of LSAC funds, and so cannot speak definitively to the resource capacity among them. The Justice for All Planning Process is developing an inventory of all services consistent with the Guidance Materials provided for its grant.

sow doubts about the system and exacerbate the drain on the limited resources of programs to conduct intake and process the applications of people who ultimately are not served.

Observations during the client focus group suggests that when marketing does occur, a variety of methods should be considered, including web-placed advertising, social media, placards on buses, highway billboards and adopt-a-road commitments in rural areas, as well as public service announcements.

**(4) TRIAGE AND CHANNELING.** The central recommendation in this Report is to develop and implement a well-advertised, centralized capacity to conduct the initial stages of intake, including the determination of financial eligibility and an initial substantive interview with a goal of handling those that would not be accepted for representation by any program, except for referral and the provision of legal information by them. Those with problems that are likely not to be assisted – based on an informed understanding of the services available in the statewide legal aid system – should be told that direct assistance is not available and be directed *at the outset* to appropriate self-help assistance, if available, and other social services, if necessary and appropriate.

The objective of the centralized capacity would be to address two of the disconnects identified above. The first is to reduce the number of persons seeking assistance from each program who are turned away because their issue is outside the program's priorities or case acceptance protocols. As noted above, more than half of the applicants who were denied service were rejected for this reason.<sup>25</sup> The second disconnect is bounce within the system as applicants are referred to successive organizations before getting to the appropriate one, being ultimately told that services are not available or simply giving up.<sup>26</sup>

The development of such a capacity will take time and should be phased in in stages and developed in close consultation with all LSAC funded programs, so that there is up-to-date – and regularly updated – information about what cases each is taking and adjustments to financial eligibility to accommodate special grants and the like.

An online capacity of a proposed system will make it possible for people to initiate contact at any time, day or night. It will also need to be staffed so that there can be follow-up with those who are only available during non-business hours. As the system develops the capacity to handle intakes telephonically, staff should be hired to operate a regular shift after hours and on weekends.

The system should have the capability to capture the information provided and transfer it to the receiving program for automatic inclusion in its case management system after appropriate conflicts checks have been administered. Minnesota should draw on the experience of Michigan, New Mexico and others for guidance based on the on-line triage systems they are developing.

Some of the comments to the Draft Report evinced a fear that the centralized triage and channeling capacity recommended by this Report is intended to supplant the intake avenues that now exist among Minnesota's legal aid providers. That is not the intent. Rather, it is ultimately to provide a well-advertised, central online and telephonic gateway through which persons in need could make initial contact in order to be referred to the right services or, if such services are not available, to be told so at the outset and not bounced unnecessarily through the system. As the system evolves and becomes better known, it would

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<sup>25</sup> See the discussion and chart at p. 8.

<sup>26</sup> See the discussion at p. 15.

relieve demand on local avenues that exist, freeing legal aid providers from processing intakes for people whom they will not serve. Persons who would only contact the legal aid provider in their community through familiar local channels, however, could still do so.

One concern raised in the comments to the Draft Report was that a centralized triage and channeling system would foreclose the legal aid program that was commenting from continuing to provide “*nearly every eligible client some form of personalized legal advice*” or at least some “*individualized attention including a consultation with [a] lawyer, a clinic and/or pro bono options.*” A review of the results of the Intake Disposition Survey confirmed that the program in question does indeed provide such help to most of the persons who contacted it. This recommendation would not foreclose continuation of such services. The intent of the Triage and Channeling system would be to refer all applicants who seek services to the appropriate legal aid provider that will in fact provide such services. It would not, however, forward individuals for whom no legal aid program would provide assistance. Each LSAC funded program would instruct the Triage and Channeling regarding what circumstances are appropriate to refer to it.

A point was also made in the comments that is appropriate to note here. The concern expressed was that “*...often rural low-income individuals are intimidated by resources that come from the big cities. For some individuals those big cities are any cities over 10,000 much less the metro which they see as completely unconnected from their lives.*” The client focus groups in rural areas, including Native American reservations, strongly suggested that this frequently repeated assertion is no longer true. Virtually all the participants in Bemidji expressed surprise at the claim, noting they are very used to calling 800 numbers to places outside their immediate community. One participant said half-jokingly that she would “*be proud to tell her friends that she had talked to a St. Paul lawyer about her problem.*” A similar lack of concern was expressed in other client focus groups.

**(4-A) Online.** The first phase of the project should focus on identifying persons who are financially ineligible or whose issue would clearly not be handled by any provider. The ultimate goal would be to have both on-line and telephonic capability to handle such issues, but initial development should focus on an on-line capability, since it would require a smaller commitment of service delivery staff to implement (other than software development staff). The on-line system should be able to capture financial eligibility and identify broad issues that will not be addressed in order to direct the applicant to self-help services.

Such a system is unlikely to be able to identify issues, however, where it not immediately clear whether a program would provide representation. In those cases, the on-line system would transfer the applicant – along with the information gained in the application process – to the program that is most appropriate to consider the case based on its geographic location or targeted expertise.

**(4-B) Telephone.** As soon as possible, the capacity should be developed to provide centralized, triage and channeling services telephonically. Telephonic capacity will allow in depth initial interviews that can identify an increasing range of issues to be addressed by the centralized triage-channeling function, freeing local programs from processing matters that they would not handle. Such a capability will require programs that do not have them to develop well considered case acceptance policies, since the decision regarding what cases get transferred should be in the hands of the local program. It will also require a robust capacity for monitoring and reflecting evolving circumstances that affect whom each program is able to serve, such as changing staff capacity, different eligibility requirements based on funding sources, special targeting of populations or issues, funding changes and the like.

**(4-C) Inter-program transfers.** Application of the concept of “no wrong door” suggests that local portals of intake to which communities have become accustomed, particularly in rural communities, should remain access points. That does not suggest, however, that they should be disconnected from a centralized triage and channeling portal. As the telephonic capacity matures, the system should be designed so that calls that come into local programs and that are recognized as ones that will not be handled by the program can be transferred, seamlessly to the triage system, by a direct transfer of the call.

**(4-D) HIGH VOLUME, ADVICE ONLY CAPABILITY.** The final phase of the Centralized, Triage and Channeling System should be to have a statewide advice-only system for clients with issues that consistently are only provided limited representation in the form of legal advice that is uniform across the state without regard to local policies, practices or culture. Advice should not be offered regarding issues that in fact vary from jurisdiction to jurisdiction in how they are handled. Evictions, for example, are governed by state law, but how that law is applied to the process for carrying out evictions may differ greatly, particularly between urban and rural jurisdictions. Thus, an understanding of local nuance is critical to providing sound legal advice. Other issues, such as application of the Fair Debt Collection Practices Act have relatively uniform application regardless of the location in the state of the person seeking assistance. Design of the system, therefore, should carefully consider which issues are appropriate for such treatment.

### **Risk assessment**

Several potential risk factors need to be considered in the implementation of the recommendations set forth above.

**Cultural and linguistic competence.** The first is the challenge of responding to the multiple languages and cultures that are present in the low-income communities served by the programs. Any centralized, triage and channeling system would need to accommodate the many languages that present in the intake process in Minnesota.<sup>27</sup> The challenge extends to cultural as well as linguistic competence. The observation of many in the Study was that there are some populations that are intimidated by the use of any telephone system where the initial language they hear is in English. *“If they hear English when they call, they will hang up.”* Some seniors, who expect face to face interaction, are reluctant, or even unwilling, to use the internet or complex telephone trees.

**Conflicts of interest.** Any system that involves gathering information about applicants or clients that is recorded and passed on to another separate legal aid provider raises the potential for conflicts of interest. The system would need to be carefully structured and vetted address conflict issues appropriately.

**Special grant obligations.** Intake policies and procedures are not always uniform, even within the same legal aid program because of “grant cases” that often impose specific requirements regarding cases that are taken and in some cases how intake is conducted. The system would need to accommodate such issues, including having the capacity to adjust promptly to requirements that may change suddenly over time.

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<sup>27</sup> See the discussion of language at p. 5.

**Capacity to respond to recurring patterns.** It will be important for the triage and channeling system to be alert to recurring statewide or regional patterns of illegal or abusive behavior by a landlord, business or governmental office that may call for a systemic response.<sup>28</sup>

**RELATION TO THE JUSTICE FOR ALL PLANNING PROCESS**

Implementation of the recommendations in this Report will significantly be affected by the deliberations of the Justice for All Planning Process being pursued in Minnesota with a grant from the National Center for State Courts. The leadership of that process have signaled their interest in the triage and channeling component and have stayed in communication with the Intake Study Team throughout their process. LSAC hopes this Study Report will provide useful input and guidance as those deliberations go forward.

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<sup>28</sup> See the discussion of knowledge of local conditions at p. 10.