



LEGAL SERVICES CORPORATION

Office of Program Performance

***FINAL
PROGRAM QUALITY REPORT***

FOR

Legal Aid of Wyoming
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Legal Aid of Wyoming **Final Program Quality Report**

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INTRODUCTION

The Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a program quality visit to Legal Aid of Wyoming (LAWyoming) from July 18-22, 2011. The team members were team leader Chuck Greenfield (Program Counsel), Cynthia Schneider (OPP Deputy Director) and Carolyn Worrell (OPP Temporary Employee.)

Program quality visits are designed to ensure that LSC grantees provide the highest quality legal services to eligible clients. In conducting its assessment, the team carefully reviewed the documents LSC received from the program, including its LSC grant applications for 2012 funding, 2010 case service reports (CSRs), 2010 other service reports (OSRs), the numerous documents the program submitted in advance of the visit along with advocates' writing samples, and a survey of program staff conducted by LSC.

On site, the team visited all four offices of LAWyoming. In addition to speaking to numerous staff members throughout the program, the team met or had telephone conversations with a number of board members, judges, bar officials, private attorneys, representatives of local government agencies, and representatives of community organizations.

In performing its evaluation of the grantee's delivery system, OPP relies on the LSC Act and regulations, LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. This evaluation is organized according to the four LSC Performance Areas that cover: (1) needs assessment, priority setting, and strategic planning; (2) engagement of the low income community; (3) legal work management and the legal work produced; and (4) program management including board governance, leadership, resource development, and coordination within the delivery system.

A draft report was sent to LAWyoming on September 26, 2011. The program notified LSC on October 18, 2011 that it would not be submitting any comments to the draft report. (See email from LAWyoming executive director Raymond Macchia, attached to this report.)

Program Overview

Legal Aid of Wyoming is a statewide program with offices in Cheyenne (main administrative office and direct services office), Casper, Lander and Ft. Washakie.

The program has a vast service area that includes over 97,000 square miles. Wyoming is the ninth largest state in size but has the lowest population of all 50 states. The 2009 American Community Survey from the US Census states that there are 52,144 persons living in poverty in Wyoming. According to the 2000 Census, there were 54,777 in poverty.

LAWyoming has a delivery system consisting of limited service, *pro se* assistance, and full representation. The program has a total staff of 13 employees (five attorneys, some of whom are part time, two legal assistants, two tribal court advocates, two part time intake specialists, a part time bookkeeper and a part time clerk/runner.) The program was formed in

2007 and began receiving LSC funds in late 2008. Raymond D. Macchia has been executive director of LAWyoming since the program began receiving LSC funding.

The program's total 2011 budget approved as revised by LAWyoming's board is \$859,317, of which LSC funding is \$750,383 (\$559,240 basic field grant and \$191,143 Native American). The program received an LSC migrant grant for January through March 2011; effective April 1, 2011, LSC reallocated the migrant grant amount for the remainder of 2011 to the basic field grant. LSC's total 2011 funding award was reduced by \$31,229 from the 2010 grant. Non-LSC funding totals \$108,934 or 12.7% of the program's total revenue.

In 2010, the majority of the program's 1,063 total closed LSC eligible cases were in family law – 65.2%. Consumer/finance constituted 14.8%, housing 9.8%, and income maintenance 2.6%.

Summary of Findings

LAWyoming has dramatically increased its services to low-income residents of Wyoming. The program has a group of very talented lawyers, intake specialists, legal assistants and tribal court advocates. The program has created a good reputation with other legal services stakeholders, judges, bar officials and private attorneys.

While the program is providing important and valuable services to clients, there is a need to evaluate the current emphasis on limited service cases. The program should evaluate the effectiveness of providing limited services, including the benefits achieved for clients, and consider whether it is appropriate to provide clients with more extended representation in court. The team recognizes that given the level of funding, finding the appropriate balance between limited and extended service is a significant challenge.

The program should establish better guidance on case selection – which clients receive extended service and which do not. The current case acceptance policies are general and need to be narrowed. The current system may result in inconsistent services around the state. The program needs to follow up with *pro se* litigants to determine the benefits clients are receiving.

While the program has a system of case review in place, it does not provide adequate supervision of the substantive work of attorneys and tribal court advocates. Such supervision needs to be provided. This would include establishing a program for mentoring and support of new attorneys and tribal court advocates. The program should consider the use of experienced pro bono attorneys as mentors.

By providing statewide telephone access to the program's services, the centralized intake system is a good gateway to the program. However, improvement needs to be made in the process of case assignment. Ideally, more advice should be given at the time an eligible client calls. The program should consider using pro bono attorneys to give advice to callers during intake hours. There is a need to highlight new cases when they are transferred to casehandlers and to not bury them in the list of the attorney's open cases. The current system has the potential for a casehandler to overlook a new case and miss a deadline.

LAWyoming treats applicants and clients with dignity, sensitivity and respect in the provision of services. The program is engaged with its local communities. Its four offices and centralized telephone intake unit provide access to program services for many Wyoming residents throughout the state. The program is encouraged to continue its efforts to bring services to low-income residents in the northeast and southwest corners of the state. The program needs to develop a policy providing for the continuous delivery of services in an area when a lawyer is out for an extended period or a lawyer leaves the program.

The program uses reduced-fee contract attorneys to provide services in remote locations where the program does not have an office. It also uses PAI attorneys for bankruptcy cases and pro bono attorneys for other cases. The program needs to provide more oversight of the quality of the work of the PAI contract attorneys. This may include the return of client files by contract attorneys to the program at the completion of the case, review of closed files to assess the quality of work, and contact with the judges on the quality of the contract attorney's advocacy. In addition, contract attorneys should keep case notes of advice given to clients.

The program provides other services to the eligible client population, including *pro se* assistance, community education and the provision of legal information.

LAWyoming completed an assessment of the legal needs of Wyoming residents in late 2009 and that same year participated in the Wyoming Access to Justice Commission's Hearings on Unmet Legal Needs. The program conducted a Native American Needs Assessment in the summer of 2010. LAWyoming has developed priorities and set detailed goals, strategies and desired outcomes.

LAWyoming's Board of Directors has recently embarked on a strategic planning effort. The program should consider including the Center for Legal Aid as a participant in part of the strategic planning process.

The LAWyoming Board of Directors is actively involved in programmatic and fiscal oversight of the program. Program employees should periodically make presentations to the board about their casework and other issues. The program should consider adding a client eligible member on the executive committee.

The executive director has successfully led the program in a positive direction. The executive director needs to fully utilize the skills and expertise of board members. Frequent and open communication between the executive director and the board is considered a best practice.

The program is managed primarily by the executive director and deputy director with each having distinct roles. The program's financial department provides detailed monthly financial reports showing actual income and expenses, budgeted amounts and variances to the executive director and the board's finance committee. The program has a challenge with

retention of staff attorneys. Internal communication occurs at bi-weekly all-staff meetings, annual retreats, through email and telephone.

The program has made progress in diversifying its funding. It is encouraged to work closely with the Wyoming Center for Legal Aid to leverage and maximize existing resources, improve the provision of civil legal services throughout the state and avoid duplication of services.

LAWyoming is actively involved in statewide efforts to improve access to justice. All staff attorneys and tribal court advocates should be encouraged to become involved in local bar activities.

PERFORMANCE AREA ONE: EFFECTIVENESS IN IDENTIFYING THE MOST PRESSING LEGAL NEEDS OF LOW-INCOME PEOPLE IN THE SERVICE AREAS AND TARGETING RESOURCES TO ADDRESS THOSE NEEDS.

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

FINDING 1: LAWyoming completed an assessment of the legal needs of Wyoming residents in late 2009 and that same year participated in the Wyoming Access to Justice Commission's Hearings on Unmet Legal Needs.

The program conducted a legal needs assessment in late 2009. The legal needs assessment consisted of interviews and surveys of low-income persons, courts, other legal services providers, the private bar, program staff and board members. Surveys were also sent to social services organizations. The program received 213 completed surveys, including 132 from the private bar, 67 from clients and 14 from social service providers. LAWyoming also assessed census data, other legal needs studies, other information, intake data on cases not accepted, and case management data regarding the types of cases accepted and those that involved limited and extended service and data showing the geographic location of applicants and clients.

The Wyoming Access to Justice Commission released a White Paper in December 2009 entitled *Indigent Civil Legal Services in Wyoming – A Report to Governor Freudenthal and the Wyoming Legislature and a Call to Action to Establish a Statewide Program* which examined unmet legal needs of Wyoming residents. The Commission held five public hearings between July and mid-November 2009. LAWyoming's executive director attended the hearings and testified at one about client need and the demand for legal services.

The Commission's report: states:

We know who needs help getting legal services in Wyoming. They are the elderly or the disabled, struggling to deal with Social Security and Medicare, or in need of a guardianship or will. They are families living in sub-standard housing, who need help with a landlord. They are hard working families, who may have lost their jobs in the recession, thereby losing their health

insurance, and who have suddenly been crushed under the weight of uninsured medical costs. They are young mothers, perhaps caught in abusive relationships, who need help with protection orders, divorce and custody proceedings. And they are children, who may simply need the protection of the law and a respite from strife. There are tens of thousands of people in Wyoming who cannot get the legal services they need. (page 3)

...

Unlike those with adequate resources, low income people are denied access to our legal system far too often. For people who are surviving on a fixed or low income, legal assistance joins health care, child care, gasoline and suitable housing as a privilege that remains just out of reach. (page 6)

In the relatively short period of time since the late 2009 needs assessment, the program's case statistics show that the area where services are requested most frequently continues to be in family law, particularly with divorce and custody matters.

FINDING 2: The program conducted a Native American Needs Assessment in the summer of 2010.

LAWyoming conducted a needs assessment on the Wind River Indian Reservation in the summer of 2010. Written surveys were mailed to Native American clients and handed out at the tribal courthouse. The program has recently started sending surveys to each Native American client whose case has been closed for use in the next needs assessment.

The program recognized the need for misdemeanor criminal representation in tribal court and subsequently received a U.S. Department of Justice grant to do this work. LAWyoming intends to strive to continue to identify emerging legal needs of Native Americans through various outreach activities at Pow Wows on the reservation, at Native American celebrations in towns located throughout Wyoming and with Native American organizations.

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

FINDING 3: LAWyoming has developed priorities and set detailed goals, strategies and desired outcomes.

Following the 2009 legal needs assessment, the program's board established the following priorities:

- Domestic law to include divorce, child custody, visitation, guardianship, child support and termination of parental rights.
- Consumer litigation to include false consumer credit reporting cases, collection agency harassment cases, check cashing service and pawn shop fraud, overpayment of state benefits and bankruptcy cases.
- Housing complaints to include evictions, discrimination and access to habitable housing.

- Social Security cases to include obtaining and maintaining Social Security benefits when no private representation is available.
- State benefits cases to include maintaining, obtaining and enhancing the ability of low-income people of Wyoming to apply and receive state benefits.
- Employment complaints to include discrimination, sexual harassment and wage disputes.
- Migrant worker complaints to include wage disputes, work conditions and discrimination.
- Native American rights to include access to health care, discrimination and the Indian Child Welfare Act.
- Document preparation such as powers of attorney, affidavit of survivorship, wills and trusts.

Within the priority areas of domestic relations and consumer litigation, goals, strategies and desired outcomes have been established. For Native American services, priorities include increasing services on the Wind River Reservation, providing assistance with benefits and domestic relations cases. Goals, strategies and desired outcomes have been developed in each of these areas.

FINDING 4: LAWyoming’s Board of Directors has recently embarked on a strategic planning effort.

The board has recently started an important strategic planning effort. A two-day board retreat was held June 30 – July 1, 2011 with nine of the ten board members participating. Consultant Melissa Pershing assisted the board at the retreat in the initial strategic planning work. There is no draft of a strategic plan yet. The board plans to form a strategic planning committee to continue the work it began on strategic planning at the retreat.

The strategic planning endeavor is a positive development. The challenge is how to ensure that the views of other stakeholders, including the Center for Legal Aid, are considered in the board’s planning process. The purpose of including other stakeholders is to optimize collaborations and raise the profile of LAWyoming.

RECOMMENDATION I.2.4.1¹: LAWyoming should continue its strategic planning effort and should establish target dates for the planning process to ensure that it is carried out in a

¹ Recommendations in this report will have a Roman Numeral to identify the Performance Area, followed by three numbers identifying, respectively, the Criterion addressed by the recommendation, the number of the finding and a number designating whether it is the first, second, third, etc., recommendation under that finding. For example, III.2.14.3 designates Performance Area III, Criterion 2, finding 14, third recommendation under finding 14. There are two levels of recommendations in this report: Tier One and Tier Two. Recommendations that are indicated with an asterisk (*) are Tier One recommendations and are intended to have a direct and major impact on program quality and/or program performance. In your next grant renewal application or competitive grant application, your program will be required to report what it has done in response to Tier One Recommendations instead of submitting a full narrative.

timely manner. The program should also consider including the Center for Legal Aid as a participant in part of the strategic planning process.

Criteria 3 and 4. Implementation, evaluation and adjustment

FINDING 5: The program has started to evaluate its services and priorities.

As part of the strategic planning process, LAWyoming has started evaluating the services it provides and its priorities. The program is faced with considerable challenges, including establishing a program in a large rural state with limited funding, setting up a delivery system to meet the needs of low-income residents throughout the state, establishing partnerships with other organizations and entities and dealing with the turnover of a number of staff and board members. As a start-up program, LAWyoming was challenged by operating with short-term funding from LSC containing detailed special grant conditions. In addition, the program has been required to emerge from the shadow of the former LSC grantee's poor reputation.

Probably the program's most significant challenge is a lack of adequate funding to operate an effective full service statewide program. LSC recognizes that it is very difficult to run a program in such a large rural state with a total budget of \$859, 317. LAWyoming first began receiving state funding (\$25,000 in IOLTA funds) during the 2010-2011 fiscal year. LSC currently provides 87% of the program's total revenue. Nationally, LSC provided 43.6% of the total funding for LSC recipients in 2010. LSC funded programs often receive significant funding from court filing fees, state and local government grants, IOLTA and other federal grants.

LAWyoming has recently started sending client satisfaction surveys to a certain percentage of clients in extended and limited service cases when their cases are closed. In addition, the program plans to send evaluation forms to PAI attorneys asking about the effectiveness of the program and recommendations for any changes. Problem areas identified in the evaluations are to be discussed at staff and board meetings.

RECOMMENDATION I.4.5.1: The program is encouraged to continue to evaluate its services and priorities and to seek funding and cooperative relationships with other legal services providers, government entities, the judiciary, the law school, the private bar, bar associations and others.

PERFORMANCE AREA TWO: EFFECTIVENESS IN ENGAGING AND SERVING THE LOW-INCOME POPULATION THROUGHOUT THE SERVICE AREA.

Criterion 1. Dignity and sensitivity

FINDING 6: By providing statewide telephone access to the program's services, the centralized intake system is a good gateway to the program. However, improvement needs to be made in the process of case assignment.

LAWyoming has a centralized telephone intake system, providing access to the program's services to prospective clients throughout the state. Telephone intake hours are Monday, Wednesday and Friday from 9:00 a.m. to 2:00 p.m., and thus are fairly limited. Intake does occur during other hours in emergency situations. The intake unit is staffed by two intake specialists who work part time. They screen callers for eligibility but do not perform conflict checks. The deputy director performs conflict checks.

The intake specialists obtain a very brief summary of the issue. They do not use scripts. While they do not have a list of agencies for referral purposes, they will make referrals based on their knowledge of agencies or after performing an Internet search with the caller still on the line. The lawyer referral service of the state bar is a common resource.

The telephones ring continuously during the time that intake is open. The intake specialists receive approximately 10 – 15 calls a day from persons qualifying for service. A new call is only taken once all notes are entered into PIKA case management system from the previous call. The phone system allows two calls to be answered and another two calls to be in queue. New callers are not called back. They are instructed to call during intake hours. Advice is generally not provided new clients at the point of intake.

Applicants who walk into any of the four offices are either provided the 800 number to call central intake or are given a hard copy application to complete. A total of three to four intake applications are faxed to the Cheyenne office each week, which are then processed by the intake specialists. The program uses Language Line for non-English speakers.

The deputy director oversees intake for the program. At the end of an intake day or the next morning, he pulls up an electronic report of all new intakes and he assigns the cases to attorneys and tribal legal advocates. He does subject matter screening of the applicants' cases. He might add a question on conflict of interest or some other concern to the notes in the case management system. He also gives some telephone advice (one to two callers per day), a portion of which become advice only cases. Cases are then electronically transferred to the casehandlers who are responsible for checking their case lists daily to determine whether they have been assigned any new cases. New cases are not highlighted when they are placed on a case list. Those with time-sensitive deadlines have tabs noting this fact inserted by the deputy director, however a casehandler can only access a tab by opening the case.

Attorneys and tribal court advocates contact the new applicant usually within a day or two after the case is electronically transferred. After the applicant is interviewed, the casehandler determines whether he or she can assist the person, and if so, what level of service will be provided. In emergency situations, for example in domestic violence cases, the prospective client can speak with an attorney immediately.

RECOMMENDATION II.1.6.1: Ideally, more advice should be given at the time an eligible client calls. The program should consider using pro bono attorneys to give advice to callers during intake hours.

RECOMMENDATION II.1.6.2*: There is a need to highlight new cases when they are transferred to the casehandlers and to not bury them in the list of the attorney's open cases. The current system has the potential for a casehandler to overlook a new case and miss a deadline.

FINDING 7: LAWyoming treats applicants and clients with dignity, sensitivity and respect in the provision of services.

LAWyoming's offices are open Monday through Friday from 8:00 a.m. to 5:00 p.m., including during the lunch hour. Special accommodations are made to assist clients outside of the office, including at home or in a care facility. Intake can be done outside of normal business hours in emergency situations.

Program employees appear to be compassionate and caring about clients. Translation services are available for LEP applicants or clients through a telephone translation service.

Criterion 2 and 3. Engagement with the low-income population; access and utilization by the low-income population

FINDING 8: The program is engaged with its local communities.

The program is actively collaborating and linking to various communities, constituencies, the private bar and courts. LAWyoming employees have made presentations to Court Appointed Special Advocates, AARP, Department of Family Services, People's Law School, community college paralegal programs and Aging Division conferences. Presentations have also been made to local bar associations, senior citizen centers, local high schools, community meetings, safe houses, shelters, court clerks meetings, and other community organizations. The program has set up booths at events such as Hispanic heritage days and conducted outreach on the Wind River Reservation. The executive director visits with judges and makes bar presentations.

The team received good feedback from stakeholders about the progress the program has made in building its reputation. LAWyoming had a tremendous hurdle to overcome due to the unfortunate reputation of the previous legal aid program.

FINDING 9: The program's four offices and centralized telephone intake unit provide access to LAWyoming services for many Wyoming residents.

The program's vast rural service area creates quite a challenge to the delivery of services to all low-income Wyoming residents. Since LAWyoming began operations in December 2008, it has opened four geographically diverse offices. The Cheyenne office (executive director, deputy director, staff attorney, bookkeeper, two part time intake specialists and a part time clerk/runner) is located in Wyoming's most populated city and state capital. The Casper office (part time staff attorney, legal assistant, temporary secretary) is in the second most populated city. The program's other two offices are in Lander (staff attorney, tribal legal advocate and legal assistant) and Ft. Washakie (tribal legal advocate), which is located on the Wind River Indian Reservation. In addition, as mentioned earlier, applicants from throughout the state can telephone the centralized telephone intake unit in Cheyenne for access to the program's services.

The opening of four offices in a short period of time, that are strategically located and professional in appearance, is a significant accomplishment. While the offices are located in the most populous low-income counties in the state, the program recognizes the need to have more of a presence in the northeast and southwest corners of the state. The program also recognizes the need to have at least two attorneys in the Casper office. A lack of funding prevents the program from expanding services at this time.

Program attorneys run some limited clinics at several locations in the state, primarily in the area of family law. Clinics have been held in Riverton, Cody and Rock Springs. The program also operates a clinic on Fridays at the courthouse in Lander

Staff is diverse (54% White, 15% Asian 15% Hispanic, 8% Pacific Islander and 8% Native American) and includes a tribal legal advocate who is a member of the Eastern Shoshone tribe.

One challenge to access to the program services is the gap in service when an attorney is out for an extended period of time or has left the program. It does not appear that the program has a policy that addresses such a contingency. It should be noted that the program acted quickly in July 2011 to hire a part time attorney for the Casper office following an unfortunate accident injuring the only staff attorney in the office.

RECOMMENDATION II.3.9.1*: The program needs to develop a policy providing for the continuous delivery of services in an area when a lawyer is out for an extended period or a lawyer leaves the program.

RECOMMENDATION II.3.9.2*: The program is encouraged to continue its efforts to bring services to low-income residents in the northeast and southwest corners of the state. The recent grant from the Wyoming Center for Legal Aid to LAWyoming to fund a PAI project in these areas is a good first step in this direction.

PERFORMANCE AREA THREE: EFFECTIVENESS OF LEGAL REPRESENTATION AND OTHER PROGRAM ACITIVITIES INTENDED TO BENEFIT THE LOW-INCOME POPULATION IN THE SERVICE AREA.

Criterion 1. Legal representation

FINDING 10: LAWyoming has dramatically increased its services to low-income residents of Wyoming.

LAWyoming has dramatically increased the services it provides over the past year and a half. While the program closed 380 total cases in 2009, it closed 1,063 cases in 2010. Further, in the first six months of 2011, 623 cases have been closed, which is a closure rate even higher than in 2010. The program's Native American cases also significantly increased from one case closed in 2009 to 53 cases closed in 2010.

The majority of the program's non-Native American cases closed in 2010 were in family (65.6%), consumer (14.9%), and housing (9.6%.) Similarly, the majority of Native American cases closed the same year were in family (56.6%), consumer (13.2%) and housing (13.2%.)

FINDING 11: While the program is providing important and valuable services to clients, there is a need to evaluate the current emphasis on limited service cases.

The program provides important and valuable services to clients in critical areas of need, including assisting residents with family, consumer and housing law issues. In the majority of cases limited services are provided. For example, the program provides *pro se* assistance in family law cases involving custody and/or divorce and in certain eviction cases. *Pro se* packets are provided, mainly in family law, using forms on the Wyoming Supreme Court website. Attorneys meet with clients when providing *pro se* assistance.

In other cases, including in family law, housing, consumer and income maintenance, attorneys and tribal legal advocates provide extended representation. In extended representation cases, the program is rarely involved in complex litigation in either state or federal court, rarely engages in written discovery, including depositions, and rarely is involved in appeals.

In 2010, the program closed 184 cases per 10,000 poor persons. The national median for total cases closed per 10,000 poor persons for LSC-funded programs that same year was 284. The program provided extended representation in 5.6% of its cases. In the first six months of 2011, the program closed 8.9% of its cases as extended. The national average of extended case closings for LSC-funded programs was 21.7% in 2010. LAWyoming closed 10 extended cases per 10,000 poor persons in 2010. The national median for extended closed cases for 10,000 poor was 61. It is important to note that for 2009 LSC required LAWyoming in a special grant condition to limit intake of cases to "the delivery of legal services by advice and/or brief service. The Recipient may also provide extended services for emergencies." This grant condition is no longer present. In addition, the lack of adequate resources for the

program has an adverse effect on its ability to handle a significant number of extended representation cases.

LAWyoming has a case acceptance policy that describes the types of cases the program will accept in the areas of domestic, consumer, housing, Social Security, state benefits, employment, migrant, Native American Rights and senior services. However, there is no mention in the policy of what level of service - extended services or limited services - will be provided for each type of case or the factors that should guide the determination of level of service to be provided.

RECOMMENDATION III.1.11.1*: The program should evaluate its case acceptance policies and the effectiveness of providing limited services, including the benefits achieved for clients, with a view towards providing clients with more extended representation in court.

RECOMMENDATION III.1.11.2*: The program should establish better guidance on case selection – which clients get extended service and which do not. The current case acceptance policies are general and need to be narrowed. The current system may result in inconsistent access to services around the state.

RECOMMENDATION III.1.11.3*: The program needs to follow up with *pro se* litigants to determine whether clients actually are benefiting from *pro se* services. The program should consider using a system employed by one of its attorneys who follows up monthly with *pro se* clients to track their progress on their cases.

FINDING 12: The program has a group of very talented lawyers, intake specialists, legal assistants and tribal legal advocates.

There has been significant staff turnover in the less than three years that the program has been operating. Only four of the 13 employees have been with the program since it started in November 2008. The current staff shows tremendous potential. The program has a group of very talented people – lawyers, intake specialists, legal assistants and tribal advocates.

Even though the majority of the program's cases are brief service, the staff attorneys are getting into court and are known to the judges. Judges spoke highly of the attorneys' work. Likewise, the tribal legal advocates are active in the Eastern Shoshone and Northern Arapaho Tribal Court on the Wind River Indian Reservation.

FINDING 13: While the program has a system of case review in place, it does not provide adequate supervision of the substantive work of attorneys and tribal court advocates.

After cases are assigned by the deputy director, the staff attorney or tribal court advocate determines whether he or she can assist the applicant, and if so, what level of service will be provided. The program has a caseload standard per casehandler of 80 cases, including 10 litigation or extended representation cases. If a casehandler has over 10

litigation cases, he or she has the option of sending “over capacity” letters informing applicants that the program does not have the resources to take the case and referring the application to the state bar’s lawyers referral service. The program encourages casehandlers not to exceed the 80/10 standard. Over the past year, all attorneys have been over caseload limits; in Cheyenne and Casper it has been common.

The deputy director conducts case reviews with each attorney on the second Wednesday of every month. Most of the reviews are conducted by telephone. A list of each attorney’s cases, sorted by the length each case has been open (i.e., 30 days, 60 days, and 90 days) is reviewed. If a case has been open for over 90 days, the attorney must provide a written explanation of the status of the case. The deputy director discusses the cases with each attorney. On some legal questions, the deputy director discusses the issue with the executive director or the most experienced staff attorney. The case reviews primarily involved checking to make sure cases are progressing and are not getting stale. The deputy director’s cases are reviewed by a staff attorney.

The deputy director also reviews closed cases. He reviews the electronic files on the case management system, PIKA. The retainer and all documents are required to be scanned in PIKA. He reviews legal work mostly on procedural issues, performs compliance checks and ensures that the correct CSR closure category has been used.

While the program has established a system of regular case reviews, supervision of attorneys’ and tribal legal advocates’ substantive work is inadequate. While the deputy director is actively involved in case reviews, he has been a licensed attorney for less than two years, although he does have previous experience for many years as a paralegal. There currently is no systematic substantive oversight of ongoing case work. This is also true for recently hired casehandlers. The deputy director’s case reviews provide some oversight, however, as stated above those are primarily oriented towards ensuring that cases are progressing at an appropriate speed and are LSC compliant. Thus, the review is more procedural than substantive. It should be noted that both tribal legal advocates are supervised by the staff attorney in the Lander office. Case reviews are performed every two weeks and sometimes involve a review of substantive issues.

RECOMMENDATION III.1.13.1*: The program needs to provide for adequate supervision of the substantive legal work of attorneys and tribal legal advocates.

RECOMMENDATION III.1.13.2*: The program should reevaluate its caseload standard of 10 litigation or extended representation cases per casehandler in the context of recommendation III.1.11.1 above regarding the program handling more extended representation cases.

FINDING 14: The program provides training for employees, however a system for mentoring and support of new attorneys and tribal court advocates should be developed.

LAWoming attorneys and management staff have attended advocacy skills and substantive law training. Employees have taken advantage of state and national training events. They have attended events sponsored by the Management Information Exchange (MIE), National Legal Aid and Defender Association (NLADA), National Institute for Trial Advocacy (NITA) and other national groups. Tribal court advocates have attended training in some areas of Indian law.

Casehandlers are responsible for developing a substantive training module to present at staff meetings. The training module developed can later be used for presentations to community groups and for other training. This is considered a best practice. The program provides training to all employees on program policies and substantive law issues in staff retreats.

The program has not developed a system for mentoring and support of new attorneys and tribal legal advocates. As a result, new attorneys and tribal legal advocates receive little to no feedback on how they are progressing professionally and how they may improve their performance.

RECOMMENDATION III.1.14.1: The program should develop a system for mentoring and support of new attorneys and tribal legal advocates.

RECOMMENDATION III.1.14.2: The program should consider establishing minimum standards of proficiency for casehandlers in accordance with a professional development schedule.

FINDING 15: The program's technology systems appear to be adequate to support both programmatic and administrative needs.

All employees have desktop computers that are connected to the Internet through DSL. Windows 7 operating system, Microsoft Word 2000 and Outlook 2007 are employed. All employees are connected through email. The program uses the PIKA case management system. Both email and the case management system are remotely accessible. Some employees have laptops, however the laptops do not have remote accessibility to the Internet. A new telephone system was installed in the Cheyenne office in June 2011. As a result, telephone communication has greatly improved.

The program's website, www.lawyoming.org, contains information about the program including priorities and intake information, a client application form, and a variety of legal forms and information. In partnership with the Wyoming Access to Justice Commission, the Wyoming Center for Legal Aid, the Wyoming State Bar, the Wyoming State Bar Foundation and the University of Wyoming College of Law, LAWyoming has been actively involved in updating a statewide website for civil legal assistance in Wyoming. The site, www.lawhelpwyoming.org, has legal information on a variety of topics.

Criterion 2. Private attorney involvement (PAI)

FINDING 16: LAWyoming uses reduced-fee contract attorneys to provide services in remote locations where the program does not have an office. The program also uses PAI attorneys for bankruptcy cases and pro bono attorneys for other cases.

The program's PAI program involves the use of contract attorneys paid at a reduced fee to provide services for clients who live in remote locations where LAWyoming does not have an office. PAI attorneys are also used for bankruptcy cases. The contract with PAI attorneys pays \$300 maximum per case or \$70/ hour. Bankruptcy cases are paid a \$750 flat rate. A contract attorney who bills above the maximum allowed must have his or her bill approved by the deputy director. LAWyoming's PAI plan anticipates spending \$69,687 for contract attorneys in 2011 and \$70,000 in 2012. In 2010, the program used 45 contract PAI attorneys and closed 35 PAI cases. The majority of PAI cases were in family (48.6%), consumer/finance (28.6%) and housing (14.3%).

On occasion, the program also uses pro bono attorneys. One outstanding example is an attorney with 45 years of experience who volunteers 15-20 hours per week in the Cheyenne office. He represents clients in landlord tenant, domestic violence and divorce cases, mentors some staff attorneys, and has helped train the LAWyoming Board of Directors on fiduciary responsibilities. In 2010, the program used five pro bono attorneys.

The Casper office's legal assistant serves as the program's PAI coordinator among her other duties. The deputy director determines which cases received from intake are appropriate for placement with a PAI attorney. The cases are then electronically sent to the PAI coordinator. The PAI coordinator then attempts to place the cases with contract and pro bono attorneys. Cases are assigned to PAI attorneys based on needs of the client, the expertise of the attorney and the availability of funds in the program's PAI account. All bankruptcy cases when the client is not judgment proof are sent out to a PAI attorney.

The PAI coordinator periodically follows up with the contract attorneys as to the status of referred cases. The deputy director reviews all PAI cases with the PAI coordinator twice a month to ensure cases do not become stale and continue to be processed. The program does not appear to be reviewing the substantive legal work of the PAI contract attorneys. The PAI coordinator is responsible for closing cases and distributing client satisfaction forms.

The executive director is mainly responsible for the recruitment of contract and pro bono attorneys. The program does not formally recognize its volunteer or contract attorneys. It does send individual thank you letters.

RECOMMENDATION III.2.16.1*: The program needs to provide more oversight of the quality of the work of the PAI contract attorneys. This may include the return of client files by contract attorneys to the program at the completion of the case, review of closed files to assess the quality of work, and contact with the judges on the quality of the contract

attorney's advocacy. In addition, contract attorneys should keep case notes of advice given to clients.

RECOMMENDATION III.2.16.2: The program should consider using pro bono attorneys to provide advice to clients during intake hours and to conduct clinics where advice and/or pro se assistance is provided.

RECOMMENDATION III.2.16.3: The program may want to consider placing an annual ad in a state bar publication thanking its volunteer and contract attorneys by name.

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

FINDING 17: The program provides other services to the eligible client population, including *pro se* assistance, community education and the provision of legal information.

LAWyoming employees perform various forms of outreach, including presentations to senior centers, community groups, colleges and others. The program expects that each attorney and tribal legal advocate will perform at least one outreach visit each month. For example, the staff attorney in the Cheyenne office performs outreach to the Chrysalis House, an in-patient treatment program. She is also involved with the Coalition for Homeless Prevention and has helped staff the booth LAWyoming had at the bar convention. Over the last two years presentations have been made about consumer scams, the basics of divorce and landlord/tenant law have been provided across the state to various organizations.

The program assists low-income persons in completing and filing *pro se* forms or packets. The program regularly conducts pro se divorce clinics to assist eligible clients to fill out divorce pro se packets. For example, the staff attorney in the Lander office staffed a *pro se* clinic in a public library in Riverton in February and a *pro se* clinic in Cody in March.

The program is actively working with the Wyoming Access to Justice Commission to develop interactive forms that *pro se* clients can use over the internet. A mediation project has been developed in association with the Laramie County Bar, the Laramie County District Court, the Access to Justice Commission and Legal Aid of Wyoming to provide pro bono mediation services to *pro se* clients in divorces. In addition, LAWyoming is working with the Wyoming State Bar to develop public service announcement across the state on a variety of legal topics.

**PERFORMANCE AREA FOUR: EFFECTIVENESS OF GOVERNANCE,
LEADERSHIP AND ADMINISTRATION.**

Criterion 1. Board governance

FINDING 18: The LAWyoming Board of Directors is actively involved in programmatic and fiscal oversight of the program.

LAWyoming has a 10-member board of directors who bring a geographically diverse prospective. Board members are from Cheyenne, Laramie, Cody, Gillette, Jackson and Evanston. There are no minority members on the board. There are two client eligible members on the board. Client board members feel comfortable speaking at board meetings and feel their comments are listened to by others on the board. One client eligible position is unfilled. There has been some turnover on the board as only the board chair and one other member have been on the board since the inception of the program. The current board chair has been chair since January 2010.

The board was meeting monthly, but recently decided to meet once every two months. Meetings are held by telephone. The board has executive, finance and grievance committees. The executive committee is comprised of the chair, vice chair, secretary and treasurer. No client eligible members are currently on the executive committee.

The board has been actively involved in the program over the past year establishing program policies and procedures that have resulted in a solid foundation for the future development of the program. Policies discussed included drug free workplace, maternity leave, bar leave, lunch, sexual harassment, compliance with LSC requirements, hour and wage issues and the PAI program.

Program management emails board packets several days to a week before board meetings. Packets include financial reports, case reports numbers, reports to funders and a written executive director's report. The monthly financial reports include budgeted amounts, actuals and variances. The finance committee meets one week before board meetings to review the financial reports. The committee reviews the reports with the bookkeeper and the program's CPA. The CPA attends full board meetings when there are particular questions.

The board has held two retreats, one in November 2009 and the other in June and July 2011. Nine of the ten board members attended the 2011 two-day retreat. Consultant Melissa Pershing assisted with the retreat. Subjects discussed included legal responsibilities of a non-profit board, ten basic responsibilities of a non-profit board, serving on the board of an LSC-funded program, achieving optimum board effectiveness and strategic planning. While initial goals were identified during strategic planning, specific strategies have not yet been identified. The board intends to develop a strategic planning committee. Board members considered the retreat positive and productive. Since board meetings are by telephone, the recent retreat was the first time some board members had met. The board retreats reflect an excellent effort to bring the board together, receive training, and get to know each other better.

Employees generally do not attend board meetings, with the exception of the executive director, the bookkeeper and the CPA.

The board last evaluated the executive director in June of 2010, utilizing a written review process. Surveys were submitted to staff, board members and stakeholders. As part of the evaluation, expected goals and guidelines were established.

RECOMMENDATION IV.1.18.1: Casehandlers and other program employees should periodically make presentations to the board about their casework and other issues.

RECOMMENDATION IV.1.18.2*: The program should consider adding a client eligible member on the executive committee.

RECOMMENDATION IV.1.18.3*: The board of directors should considering holding at least one meeting per year in person.

Criterion 2. Leadership

FINDING 19: The executive director has successfully led the program in a positive direction.

The executive director has met many of the significant challenges facing the program since its inception. His actions have successfully led the program in a positive direction. Judges, community organizations, PAI attorneys, bar officials, staff and board members, whom the team interviewed, discussed the positive and cooperative approach he has taken. The reputation of the program is good and much enhanced from the previous LSC grantee in Wyoming.

The executive director primarily communicates with board members at board meetings, through board meeting materials, including a written executive director's report and through email. Although the executive director and board chair communicate through email and over the telephone on occasion, no regular meetings between the two are held.

RECOMMENDATION IV.2.19.1*: The executive director needs to fully utilize the skills and expertise of board members. Frequent and open communication between the executive director and the board is considered a best practice.

Criterion 3. Overall management and administration

FINDING 20: The program is managed primarily by the executive director and deputy director with each having distinct roles.

The program is managed by the executive director and deputy director. Both have been with the program since it was initially funded by LSC in 2008. The executive director has been an attorney for 13 years. The deputy director, who has previous experience as a

paralegal, office manager and interim executive director for another legal aid program, was admitted to the bar about a year and a half ago.

The executive director reports to the board, has overall responsibility for the program's operations, including personnel issues, budget preparation, grant writing, fundraising, recruitment of PAI attorneys and the relationship with the Wyoming Access to Justice Commission, other providers and bar associations. The deputy director, among other things, oversees intake, assigns cases, conducts case reviews with attorneys, handles client complaints, completes grant reporting for the senior grant, takes a role in personnel decisions and approves payments to PAI attorneys as necessary. The program's administrative structure is appropriate for a program of its size.

Criterion 4. Financial administration

FINDING 21: The program's financial department provides detailed monthly financial reports showing actual income and expenses, budgeted amounts and variances to the executive director and the board's finance committee.

A part time bookkeeper and a CPA assist with the financial administration of the program. The bookkeeper has been with the program since December 2008 and previously had a total of five years of accounting and bookkeeping experience. She has attended two financial training programs offered by Gerry Singsen and Judy Arrigo. The CPA, with whom they have a monthly retainer, has also worked for the program since 2008.

The bookkeeper's duties include preparation of monthly financial reports, payroll, time allocation, cost allocation, payables, quarterly tax reports, employee benefit assistance, and helping the executive director with other duties.

The program uses QuickBooks for accounting software, including for general ledger and check writing. After employees enter time by funding source on the PIKA case management system, cost allocations are performed by posting the information into an Excel spreadsheet and then allocating the expenses to the appropriate funding source.

The bookkeeper drafts monthly financial reports, displaying budgeted amounts, actual income and expenses and variances. They are then sent to CPA for review, following which the reports are provided to the executive director and the board's finance committee for review. In addition to the financial reports, the CPA assists with preparing budgets, taxes and the audit. Both the bookkeeper and the CPA regularly communicate with the executive director.

Criterion 5. Human resources administration

FINDING 22: The program has a challenge with retention of staff attorneys.

LAWyoming splits its human resources administration duties among three people. The executive director is responsible for hiring. The deputy director takes on some human resources functions, including initial employee orientation, PIKA training, and issues

concerning time sheets. The bookkeeper handles employee benefit administration, including initial employee forms.

Employee benefits include: fully paid health insurance for an employee and 75% paid for family members; dental insurance; annual leave of four hours per paid period; sick leave of four hours per pay period; six weeks of paid parental leave; and employer match of up to 6% to a 401(k) retirement plan (implemented in April 2011). The program does not provide long term disability insurance or group life insurance.

Four of the 13 employees have worked with the program since it started in November 2008. The program has had considerable turnover in its staff attorney and other positions during this time. Over the past year, three staff attorneys have resigned or are no longer employed by the program. The staff attorney in the Lander office started in November 2009. The temporary staff attorney was hired in the Casper office in 2010. One tribal legal advocate was hired in April 2011; the other in June 2011. Both intake specialists were started in January 2011.

It appears that at least one hiring decision was made without a full check of references.

Employee work hours were changed in late 2010 from 8:30 a.m. to 4:30 p.m. to 8:00 a.m. to 5:00 p.m., with no increase in pay. This increased employees' hours from 7 to 8 hours per workday. Some employees have voiced concern about this change.

RECOMMENDATION IV.5.22.1*: LAWyoming needs to carefully make hiring decisions. References must be checked. One mistake by staff can hurt all the progress the program has made. It is better to wait to hire than to rush.

Criterion 6. Internal communication

FINDING 23: Internal communication occurs at bi-weekly all-staff meetings, annual retreats, through email and telephone.

Communications between employees mainly occur through email and by telephone. There is no internal newsletter. All-staff meetings are held every two weeks by telephone and through the use of GoToMeetings. The meetings often involve training on an issue presented by a staff member. A yearly staff retreat is held. The most recent retreat, which lasted two and one-half days, took place on June 10-12, 2011, and involved training and a review of program policies, including LSC policies and procedures. The staff retreats are an excellent opportunity to bring staff together, provide training, and discuss program policies.

The executive director and/or the deputy director attempt to visit each office at least once a quarter. It does not appear that program staff is regularly made aware of board actions and activities.

Criterion 7. General resource development and maintenance

FINDING 24: The program has made progress in diversifying its funding.

LAWyoming began in late 2008 receiving only LSC funding. Over the past two and one half years the program has applied for and received funding from a number of other sources. In 2011, those other funders include: U.S. Department of Justice - criminal defense for Native Americans and related technical assistance (\$48,490); U.S. Department of Justice - civil legal assistance for Native Americans and related technical assistance (\$33,433.50); and Wyoming State Bar Foundation - IOLTA grant for civil legal services, including outreach efforts and materials (\$25,000.) The program also receives funding from the Wyoming Department of Health, Aging Division - Title III funds for assistance to Wyoming's seniors (\$88,300.) A total of 12.7% of the program's expected total revenue for 2011 is from non-LSC sources.

The Wyoming Legislature enacted a court filing fee bill to help fund civil legal assistance effective July 1, 2010. The Wyoming Access to Justice Commission and others proposed and supported the bill. Revenue is anticipated to be \$1 million per year from the filing fee bill. Following the bill's enactment, the Wyoming Center for Legal Aid, a 501(c)(3) non-profit corporation, was established to receive the filing fee revenue through the Wyoming Supreme Court. The Center currently has one employee, a staff attorney. The Center awarded a total of \$300,000 in September 2011 to four organizations to provide civil legal assistance. LAWyoming was granted \$75,000 for a PAI project to provide direct legal assistance to those areas without a legal aid office, mostly in the northeast and southwest sections of the state.

LAWyoming started a donor fundraising campaign in 2010. In November 2010, the executive director mailed out a solicitation letter to the 2,200 members of the Wyoming state bar. In response the program received \$5000 in donations in 2010 and over \$6,000 so far in 2011. The plan is to make the solicitation letter an annual effort. The program also received \$2,500 from an unsolicited *cy pres* award. The board plans to establish a fundraising committee.

RECOMMENDATION IV.7.24.1*: The program is encouraged to work closely with the Wyoming Center for Legal Aid to leverage and maximize existing resources, improve the provision of civil legal services throughout the state and avoid duplication of services.

Criterion 8. Coherent and comprehensive delivery structure

[Addressed elsewhere in this report]

Criterion 9. Participation in an integrated legal services delivery system

FINDING 25: LAWyoming is actively involved in statewide efforts to improve access to justice.

The executive director is regularly engaged with the major stakeholders in civil legal services in Wyoming. He has actively worked with the Wyoming Access to Justice Commission. In partnership with the Wyoming Access to Justice Commission, the Wyoming Center for Legal Aid, the Wyoming State Bar, the Wyoming State Bar Foundation and the University of Wyoming College of Law, LAWyoming has helped update the statewide website for civil legal assistance in Wyoming. The site, www.lawhelpwyoming.org, provides legal information on a variety of topics.

The executive director was described by other civil legal services stakeholders as very cooperative, willing to share information, an effective advocate and taking a leadership role. One tribal legal advocate is president of the Wind River Tribal Bar. LAWyoming has made remarkable progress in collaborating and linking to various communities, constituencies, and courts including work with the Wyoming Access to Justice Commission.

The only other current provider of civil legal services in Wyoming is the University of Wyoming Law School's clinical programs. Wyoming organizations serving domestic violence victims have trained advocates who work with victims to obtain protective orders.

RECOMMENDATION IV.9.25.1: Staff attorneys and tribal legal advocates should be encouraged to become involved in local bar activities.

Chuck Greenfield

Subject: FW: Draft Visit Report

From: Ray Macchia [mailto:RMacchia@lawyoming.org]

Sent: Tuesday, October 18, 2011 1:58 PM

To: Chuck Greenfield

Subject: Re: Draft Visit Report

Hi Chuck,

I am at the Mountain West Directors meeting which is the reason for the delayed response.

I talked to the board about the report and everyone thought it was fair and accurate so we won't be submitting a formal response.

Thanks again.

Ray

Sent from my iPhone