



# LEGAL SERVICES CORPORATION

## Office of Program Performance

### *FINAL PROGRAM QUALITY REPORT*

*FOR*

*California Indian Legal Services*

Recipient Number: 705158

June 29 - July 3, 2009

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**California Indian Legal Services  
Recipient # 705158**

**Draft 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 at California Indian Legal Services (CILS) from June 29 to July 3, 2009. The team members were Tim Watson and Cheryl Nolan; both are program counsels in the Office of Program Performance and members of the LSC Native American Advisory Group.

Quality visits are designed to ensure that LSC grantees are providing the highest quality legal services to eligible clients. The OPP team evaluates the performance of the program according to the criteria in four LSC Performance Areas that cover needs assessment and priority setting; engagement of the low income community; legal work management and the legal work produced; and program management, including board governance, leadership, strategic planning, resource development, and coordination within the delivery system.

OPP quality teams have skill sets selected for evaluating and making judgments about a provider's delivery system, its legal work, governance, and its methods of engaging with the client population. These teams do not ordinarily have members with training in accountancy or detailed fiscal analysis.

In conducting its assessment, the team reviewed the documents LSC has received from the program including grant application narratives; case service reports (CSRs) and other service reports (OSRs); the numerous documents the program submitted in advance of the visit, including advocates' writing samples; and a survey of CILS staff conducted on the Internet. On site the team visited three of the four program offices. In both phone conversations and in-person meetings, the team interviewed all of the CILS staff members and a sampling of board members, judges, and representatives of community organization members having knowledge of the program's activities.

In addition to the LSC Performance Criteria, in performing its evaluation 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.

Prior to this visit, the last quality visit that was conducted at CILS took place in 2003. As indicated in the following section, the program has changed significantly since that time.

## **PROGRAM OVERVIEW**

California Indian Legal Services (CILS) was originally part of California Rural Legal Services<sup>1</sup> and separated from CRLS in 1967. For 23 years CILS had one executive director, who left in 2005. A new director was appointed in the fall of 2007. At the time of OPP's last on-site visit in December of 2003, the main office was in Oakland. After the new director was hired, the Oakland office was closed and a new field office with a

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<sup>1</sup> Now California Rural Legal Assistance.

staff of four was opened in Sacramento. The office in Escondido became the main office and is staffed by nine people. The program's other offices are in Eureka (staff of three) and Bishop (one paralegal). Until May of 2008 there was a small office in Santa Rosa, functioning as a satellite office of the Oakland office. That office closed when the senior attorney employed there resigned and the support staff followed her.

CILS receives \$944,111 in LSC Native American funding to provide legal assistance to Indians throughout California. The state has 109 federally recognized tribes, approximately 65 that are not recognized, and 10-15 that have applied for recognition. The CILS staff works on a broad range of Native American issues including tribal recognition, tribal court development, codification of laws, tribal displacement, land reclamation, repatriation of remains, aboriginal rights, and issues emanating from the Indian Child Welfare Act and the American Indian Probate Reform Act.

In addition to the diversity of language groups and cultures in the state's Indian population, CILS also deals with important regional differences in the needs of its client population. In the southern part of the state, tribes have significantly more income (arising from both gaming and from a higher level of local economic development) than those in the east and north. The northern tribes receive a higher percentage of income from natural resources. The differences in income — both in amount and consistency — have an appreciable impact on the tribes' capacities for court development, codification of laws, and self-determination.

CILS also receives \$36,227 in basic field funding to serve three sparsely populated rural counties — Inyo, Mono, and Alpine. These counties, which comprise the CA-1 service area, are served by the CILS office in Bishop. This remote town, located in the rift valley between the White Mountains and the Sierras, is 5-6 hours by car from either the Sacramento or the Escondido office. The CA-1 poverty population is estimated at 3,932 and is 68% white, 26% Latin/Hispanic, and 15% Native American. The basic field component in the CILS Bishop office is known as the Eastern Sierra Legal Assistance Project.

The CILS program has experienced a dramatic drop in staff and non-LSC funding over the last few years. Since 2002 staff has dropped from 45 to 18 (attorneys from 22 to 7), and non-LSC funding is more than a million dollars less than its high point in 2005. This period of retrenchment is due in large part to a significant loss of tribal funding incurred in the last few years when senior staff departed and engaged in tribal work in private practice.

CILS' next competition year is 2011.

## SUMMARY OF FINDINGS

CILS' long-standing priorities entail a mixture of tribal work and individual client work. The CILS board and management are conscientious about client needs and plan to conduct a new full assessment of current legal needs. CILS' diverse staff is accessible, highly engaged with the client population, and treats them with sensitivity and respect.

The CILS caseworking staff members have a high level of expertise and achieve significant results for their clients. While there are some aspects of the program's approach to legal work management that could be improved, on the whole CILS management and caseworkers employ methods that support and enhance the program's ability to address client needs effectively and efficiently.

After experiencing a prolonged period of retrenchment and transition between executive directors, CILS now appears to have effective governance, leadership, and management. The program has hired an experienced controller who has written an accounting manual and works closely with the board and management.

CILS is pursuing new sources of funding after experiencing a sharp drop in non-LSC funding in recent years.

CILS has a coherent, comprehensive delivery structure that is effectively integrated with the activities with other providers at the state and local level. The program's client representation and other activities produce significant and lasting benefits to the California Indian population.

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

#### **Criterion 1. Assessment of needs.**

##### **Finding 1: The CILS board and management are conscientious about client needs and have recognized the necessity for a full assessment of current legal needs.**

CILS last conducted a systematic assessment of client needs in late 2004. A CILS program fellow, a graduate student in social sciences, developed a survey after examining several models provided by LSC. The program mailed 1,000 surveys in pre-paid envelopes to individuals from across the state who had contacted CILS over the previous year. A random selection from the database yielded geographically dispersed individuals who were both income-eligible and over-income and had received varying levels of service from CILS. The survey was also posted at the CILS website. The response rate to the client survey was low and by the program's own assessment did not yield significant results. The staff and board were also surveyed and provided anecdotal information about client needs based on their experiences as clients and on their work on

behalf of clients. In view of the fact that the board has nine Native American client community representatives, their formal survey input had considerable value.

At a board-staff retreat in 2008, the program revisited the issues of client needs. It reviewed the 2004 data, received staff input, analyzed demographic data, and recognized the need for a new assessment to be conducted in the near future. It was noted during the visit that there may be a particular need for additional information about client needs in the eastern and northern parts of California.

**Recommendation I-1-1:**<sup>2</sup> CILS should conduct a new statewide needs assessment that will inform the program about changes in its client populations' substantive legal needs and identify the locations of the client groups having those needs.

**Recommendation I-1-2:** CILS should consider a variety of approaches aimed at obtaining more direct input and a dialogue on legal needs, such as focus groups and meetings with clients and community stakeholders. It should also consider utilizing technology such as GIS mapping in its legal needs study.

#### **Criteria 2-4. Goals, resources, implementation, evaluation, and adjustment.**

#### **Finding 2: CILS' long-standing priorities entail a mixture of tribal work and individual client work.**

Each year the CILS board conducts a priority review to ascertain if CILS activities are directed towards client needs and if resources are properly allocated. The board makes adjustments to priorities as needed. The program reports that these reviews include examination of demographic data, input from client board members and staff, and information derived from the program's CMS data. In recent years only minor changes in priorities have occurred. The program's current priorities for its Native American component are –

- Preserve and enhance the Indian land base
- Secure self-determination and Indian control of reservations and reservation programs
- Civil Rights
- Protect and Encourage the Growth of Indian Heritage/Cultural and Religious Protection
- Protection of Indian Families and Children
- Housing
- Economic Development
- Effective Legal Assistance for All California Indians
- Community Education

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<sup>2</sup> Recommendations in this report will have three numbers. The first corresponds to the LSC Performance Criteria Area, the second to the finding, and the third to the recommendation. Recommendation I-1-1 is therefore the first Recommendation (in this instance the only one) under Performance Area I, Finding 1.

The program's priorities for its basic field component are –

- Housing – evictions, residency issues, health violations, security deposit refunds, tenant rights, personal property, discrimination, mobile home titles
- Public Benefits - Social Security, food stamps, general assistance, SSI, SSDI
- Debtor Protection - unfair debt collection, bankruptcy, contracts and warranties, excessive debt, unfair sales/ business practices, purchase contract reviews/rescissions, small claim court assistance
- Health - Medicare benefits, MediCal benefits, medical debt, medical alert systems, Health insurance, state disability, nursing home issues, advanced directives
- Elder Law - durable power of attorney, notary services, basic estate planning, trusts, wills, elder victims of fraud, abuse, undue influence
- Domestic Violence - physical abuse, emotional/psychological abuse, sexual abuse, economic abuse

On a daily basis CILS deals with the difficulty of balancing the need for tribal work against the need for individual casework. Board members, management, and staff all discuss this issue easily and openly. In recent years CILS has focused its efforts on tribal governance and tribal justice development. Its emphasis on this type of work and its expertise is well-known to the state's Indian community and partnering agencies. Tribal court development is seen by the executive director and other experienced staff as the most pressing statewide issue. Staff members liken the impact of tribal court development to that of high-level, broad-impact advocacy because of the significant benefits that spring from it.

Notwithstanding the program's concentration on tribal work, the program nevertheless conducts a small but critical amount of individual casework on important issues, and it provides a significant amount of brief services for individuals through telephone intake, advice, and referral. The program recognizes that some routine individual casework is now becoming more important; for example, the American Indian Probate Reform Act (AIPRA) has caused an increase in requests for wills as the provisions of the act become more well-known in the client community.

During its annual review of priorities, the board and staff review the "deliverables" stated in the priorities and determine whether or not the specific goals have been met, e.g., whether the program met the goal of preventing 30 unlawful evictions. When specific goals are not met the board and staff determine the reason and if the program's performance was sufficient. This review of program performance also includes an evaluation of the overall impact of the program's work on a particular problem experienced by the client population, e.g., the shortage of housing for poor people.

**Recommendation I-2-1:** CILS should confirm or modify its priorities after reviewing the results of a new assessment of client needs.

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

**Criterion 1. Dignity and sensitivity.**

**Finding 3: CILS policy, culture, and staff diversity ensure that clients are treated with sensitivity and respect.**

The diverse Native American culture in California is reflected in the board and staff. Many of the staff (6 of 17), including the executive director, are tribal community members, as is most of the board. Other staff members have demonstrated a commitment to Native American advocacy through years of experience and study.

Interviews demonstrated that program staff members are sensitive to the needs and circumstances of the client population and that clients are accorded dignity and respect. Staff members evinced sensitivity to the geographic isolation that is experienced by some tribes and to the strong preference for in-person communications in others. Staff members visit tribal elders in their homes if necessary. Intake workers discussed the need to help clients who have no where to go with their problem and have been frustrated by their attempts to get help. The program's Intake & Case Management Policy & Procedure Manual reflects this philosophy at § 3.9:

*Dealing with legal problems is frustrating and confusing for most people, and calling an attorney can be intimidating. However, you can make the experience less stressful by being patient and courteous.*

The manual emphasizes that when CILS cannot provide a person with extended service, it is nevertheless their goal to assist them as much as possible with referrals and legal advice. This goal is known to the greater advocacy community; a community agency spokesperson noted that CILS does a good job of referring applicants to other services when they cannot help them. Staff members take pride in the fact that the program receives a significant amount of referrals from previous clients.

CILS has an LEP policy but rarely encounters non-English speakers in its work. The Sacramento and Escondido offices have staff members who speak Spanish (including the executive director). Tribal languages normally require translators from the tribe itself.

**Criterion 2. Engagement with the low-income population.**

**Finding 4: CILS is sufficiently engaged with the client population.**

The program's Other Services Report, interviews with staff, and comments from community agencies all depict a sufficient level of engagement with the client population. Advocates consider community education an important part of their work and make presentations concerning Indian legal issues to a wide variety of agencies and

interest groups, including tribal elders. The program provided a list of 25 community education events conducted by staff in the year prior to the visit. Other means of reaching or assisting the client population include website pro se and community legal education materials, radio and newspaper announcements, and referrals to other agencies or attorneys.

Program staff members appear to be vigilant concerning their level of engagement with various segments of the state's Indian population. Interviews revealed a concern that more information is needed about clients in the eastern and northern parts of California. Another concern was that outreach efforts may need to be enhanced in order to reverse a trend toward a disproportionate number of calls coming from cities and counties closer to their offices than from more distant areas.

**Recommendation II-4-1:** As CILS conducts its next needs assessment, it should use the process to enhance its visibility in remote or isolated communities and in areas where less is known about client needs.

**Criterion 3. Access and utilization by the low-income population.**

**Finding 5: CILS' telephone intake affords general statewide access to program information and services, but walk-in applicants may encounter some difficulty.**

Intake at CILS primarily takes place over the telephone in all offices. Telephone intake occurs for half a day, every day. Otherwise the caller hears a recording giving the intake hours and asking them to leave a message. Calls are returned in the order they are received unless the nature of the case suggests that the call be returned immediately. Intake turnaround time is typically within two business days. For several years, intake was centralized in the Oakland office. Centralization ceased in 2007 with the rearrangement of program offices. See Program Overview at p. 3. Although it is not recommended at this time, if the volume of brief services cases increases, CILS may wish to centralize intake again.

There are some significant variations in telephone intake among the offices. In the Eureka and Sacramento offices, intake is handled by a combination of support staff and advocates. Intake is performed by an attorney in the main office in Escondido. This attorney spends approximately 75% of her time on intake — screening for eligibility, entering data into the case management system (CMS), and providing advice and referrals. This evolved partly because of her skill with the CMS. Although the program's use of her time as an intake worker is somewhat inefficient, she is able to give a significant amount of fundamental advice to persons in need of it. The program's long-term plan is for her to function less as an intake worker and take on more extended work. She is already working on some extended cases as part of this transition, which is enabled by the presence of law clerks who are taking over the intake screening functions during their stay with the program.

In view of the program's extensive work for tribes, walk-in intakes of individuals do not occur frequently. It appears that the offices handle walk-ins with significant variations from office to office. In the Bishop office, which is staffed by a part-time receptionist and a paralegal, a sign advises those outside to knock in order to be admitted. In Escondido, people seeking entry must press a buzzer and answer some questions to gain admission. The office in Eureka discourages walk-ins because of past security issues. The Sacramento office uses a sign to discourage walk-ins, but still handles them when the matter is urgent. The CILS Intake & Case Management Policy & Procedure Manual at § 3.33 indicates that walk-ins should be treated "like any other intake."

The Intake & Case Management Policy & Procedure Manual sets out case types, funder codes, and differing procedures depending upon the case and funder. The intake staff has binders with procedures and regulations concerning LSC cases. The program's compliance-responsible staff person (the director of administration) and the executive director make revisions to the intake manual when needed. Intake workers also make use of a binder containing LSC information concerning compliance and timekeeping.

When it appears that an intake might qualify for extended service, it is discussed in a case acceptance meeting (CAM). Case acceptance meetings occur weekly by conference call and can involve most of the intake and advocacy staff. The program takes advantage of this regular telephonic gathering to discuss needs in the communities, legal developments, and other matters affecting decisions to accept cases for extended work. The meetings typically last from 20 minutes to two hours depending on how many participate and whether major issues are discussed. Occasionally staff will conduct an emergency CAM when a new intake has a looming hearing. Cases are referred back to local offices from the case acceptance meetings for brief service, additional fact development, or more eligibility information. The Manual does not appear to have written case acceptance criteria.

CILS has an intake committee that holds meetings at least quarterly. This committee examines CMS intake data to detect patterns, such as frequently seen or emerging issues. It examines CMS figures concerning extended service cases, referrals, cases declined, and the percentage of Indian cases. The committee's findings are communicated to the CILS offices. This work can sometimes lead to a new community education publication, as was the case when a high number of calls lead to a publication on AIPRA. The intake committee also discusses the various offices' intake practices in order to make their responses more uniform.

**Recommendation II-5-1:** CILS should continue with its plans to transfer the Escondido intake function to a non-attorney.

**Recommendation II-5-2:** CILS should formalize its case acceptance criteria for all services and add it to the Intake & Case Management Policy & Procedure Manual. It should post the Manual electronically, perhaps using a wiki for staff.

**Recommendation II-5-3:** The Intake & Case Management Policy & Procedure Manual section dealing with walk-ins should be revised to reflect the actual practice in the offices and set out the criteria for accepting walk-ins.

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

**Criterion 1. Legal Representation**

**A – Capacity**

**Finding 6: The CILS caseworking staff has a high level of skill, expertise, and experience.**

The collective level of skill and expertise of the ten case-handling staff (including the executive director) is impressive. The program's attorneys have a national reputation for their expertise in Indian law. All members of the attorney staff have made presentations at outside training events, some at the national level. In addition to their legal education, some members of the attorney staff have advanced degrees in other areas, including Indian studies and business. Most have served as general counsel to individual tribes. The program's senior staff attorney is in her 21st year with CILS, and the Escondido directing attorney has worked as a legal aid attorney for more than 20 years, including a period at DNA. CILS' non-attorney advocates have high skill levels, are well-respected both within and outside the program, and are major contributors to its work.

**Finding 7: CILS' professional staffing level appears to be stabilizing after a period of program retrenchment and high staff turnover.**

The CILS experience with professional staff turnover is somewhat anomalous when gauged against the national legal aid milieu. While funding losses often result in staff losses in legal services, in the case of CILS, the reverse is actually the case. Over the last three to four years several talented attorneys left the program to open private practices in which they engaged in the same type of work they had done as attorneys for CILS. CILS consequently lost a substantial amount of tribal revenue. The decline in both tribal revenue and staff appears to have bottomed out. The board chair noted that the program may begin to see an increase in tribal contracts with CILS. A long time staffer noted that the program now has to more carefully consider its capacity to perform when contemplating a contractual relationship with a tribe.

In the case of the Bishop and Eureka offices, their remote locations are a strong factor in staff turnover. The Bishop office is particularly remote and has a long history of attorneys who stay only a brief time and move on. It is staffed by a part-time administrative assistant and a lone paralegal with supervision by the senior attorney in Escondido, who makes the five-plus hour drive two to three times a year to be on site. The program hopes to fund a part-time attorney in Bishop in the coming months.

The Sacramento office, which has been in place for only two years, is staffed by the CILS Director of Administration, an intake advocate who is a law school graduate, a legal/administrative assistant, and a new attorney with almost a year of experience. The executive director acts as that office's managing attorney and makes frequent trips there. The Sacramento office serves 38 counties. CILS has no immediate plans to add a position to that office.

**Recommendation III-7-1:** If it has not yet done so, CILS should include in its long-range planning another attorney position in the Sacramento office.

**Recommendation III-7-2:** CILS is encouraged to keep its staff informed of LSC's Loan Repayment Assistance Project (LRAP) and should assist staff in locating and making use of other loan assistance opportunities.

## **B – Systems, Approaches, Techniques**

**Finding 8: While there are some aspects of the program's approach to legal work management that could be improved, on the whole CILS management and casehandlers employ methods that support and enhance the program's ability to address client needs effectively and efficiently.**

Although the casehandling staff members of CILS are spread over considerable distances, they appear to be in almost constant contact with another. The visit team's overall impression was one of a smoothly functioning, coordinated casehandling effort. Casehandlers in all offices described a program culture of continuous interoffice communications. Casehandlers in remote offices reported that they confer with colleagues in Escondido several times a week, often daily. Communications are by phone and by email over a virtual private network (VPN).

CILS has several project groups that use email lists for discussions of their subject matter and hold regular conference calls on such subjects as tribal government, AIPRA, ICWA, intake, and public benefits. The executive director requires regular meetings and minutes.

The casehandling staff appears to have all necessary tools for effective representation of client interests. CILS recently changed from an outdated case management system to a web-based PIKA system. Staff members are learning to use the system to generate reports that allow them to monitor caseloads by office and person. Casehandlers have desktop access to the internet, access to electronic research, and other necessary research materials. Although there does not appear to be a standardized or centralized brief and forms bank, forms and pleadings are saved on the network for future use. Each office has the capability to access data in other offices using remote access software. The program is working on centralizing this search function to improve this remote access feature.

Litigation and training expenses are included in the budget. Since much of the program's legal work is not of an adversary nature, the litigation expense fund is not often used, but staff members are aware of it and cited examples of its use. The training expense fund is regularly accessed, especially for newer advocates. The program has made an effort to economize on training during this period of budgetary retrenchment by emphasizing more online training and less travel. Advocates reported that they have ample training opportunities. On complex or high-profile matters, less experienced attorneys are mentored by seasoned ones and paired with them to gain experience.

Direct supervision of legal work is the responsibility of two directing attorneys, a senior attorney, and the executive director. CILS does not have a litigation director. In the Escondido office the directing attorney is a seasoned legal services veteran and supervises two attorneys who have a few years' experience each. He reviews their files periodically in case review conferences, evaluates them annually, and advises them in case acceptance meetings.

The senior attorney in the Escondido office, also a long-time veteran, supervises the work done in the Bishop office, which is currently staffed by a paralegal and a part-time support person. The part-time attorney that CILS hopes to hire for that office will also be supervised by the Escondido senior attorney.

The executive director supervises the legal work of the Sacramento office, which is staffed by an attorney who has just passed her one year anniversary and a paralegal of 12 years. The executive director is also the supervisor of the paralegal in the Eureka office, whose spouse is the directing attorney there. Although his spouse provides oversight on legal matters, he is evaluated by the executive director. The Eureka paralegal is in law school and the program also hopes to hire yet another attorney for the Eureka office.

CILS does not have a litigation or advocacy manual but does have a written policy entitled Management and Supervision of Legal Work. The policy requires periodic case review conferences, periodic review of office and individual caseloads, and weekly case acceptance meetings. Case review conferences cover communication with the client, effectiveness of representation, training needs, and calendar entries. Case opening memos are required by the policy and are generally prepared for all extended service cases. Due to staffing constraints that arose during the period of retrenchment, this practice was reportedly sometimes inconsistently applied until the program's staff and case levels became more stabilized. The executive director reports significant improvement and states that directing attorneys strive to review all case opening memos for cases opened before substantive work begins and after all case opening documents are received.

CILS' legal work policy does not appear to cover some aspects of legal work management sufficiently —

- It is unclear as to whether all advocates use the CMS for case note entry, or if the program requires it.
- There are no guidelines for appropriate caseloads. In view of the program's policy that advocate caseloads are taken into account when cases are assigned, guidelines could prove useful.

- At present there is no set procedure for obtaining feedback from clients on the quality of CILS' services other than the program's grievance procedure. A systematic method of obtaining client feedback after case closure is considered a valuable tool by many LSC-funded providers.
- The offices use different approaches to setting up court appearances and other critical events on their calendars. Methods vary from desk calendars to the use of two or more types of software. The program's board chair and executive director are aware that there is a need for the program to standardize its calendaring procedures.

**Recommendation III-8-1:** CILS should expand its legal work management policy into a litigation and case management manual that will address calendaring, form and brief management, methods for obtaining client satisfaction information, case note entry, caseload guidelines, and other aspects of legal work management.

## C – Achieving Significant Results

### Finding 9: CILS caseworkers achieve significant results for their clients.

The CILS Native American grant (\$950,000) resulted in 861 closed cases in 2008. Of that number, 78 (9.1%) were extended service cases. Sixty-two percent (62%) of the cases closed by CILS were in the Miscellaneous category, which includes legal assistance to non-profit organizations or groups, Indian/tribal law, and wills/estates. This result reflects CILS' work in tribal organization, development, and recognition, as well as significant assistance to Native Americans who wish to make wills in order to take advantage of the provisions of AIPRA.

Although extended cases comprise a small percentage of the Native American cases that CILS handles, the cases are often complex, entail significant effort, and have high precedential value. They cover a broad range of compelling issues in a variety of forums. Such matters include:

- Repatriation of remains pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA);
- Successful appellate arguments in the 5th District Court on behalf of the tribe, which was represented by CILS, regarding placement of a dependent child pursuant to the Indian Child Welfare Act;
- A precedent-setting Superior Court case involving aboriginal rights to employ traditional methods (gill net) and to fish on ancestral lands; and.
- Negotiations with government agencies and developers to protect or clean up Native American lands pursuant to the California Environmental Quality Act.

Less dramatic but equally important are the efforts of the program concerning tribal development and tribal court development. A seasoned staff member discussed the importance of this work and likened it to having the same effect as high impact litigation. One of the many beneficial effects of having a tribal court system and codified laws is

that it enables tribes to handle dependency cases under ICWA without resort to outside laws. This lessens the chance of a Native American child being placed outside the tribe. Tribal court development in this area is critically time sensitive so that tribes can begin to assert their inherent jurisdiction over their Indian children thereby protecting the governmental and cultural integrity of the tribe.

Another important case type is the restoration of tribal land, which creates potential for housing, cemeteries, agrarian uses, and gaming. Land reclamation is complicated and time intensive. The program is currently assisting a few tribes with matters of this type, including an action transferring fee land to federal trust status to increase the reservation land base.

Much of the tribal work described above is performed pursuant to contracts for representation entered into between CILS and tribes or tribal groups. The board chair indicated that this work keeps the CILS staff “on the cutting edge” of Native American law.

A prominent intertribal judge described the program’s work, particularly regarding tribal development, as invaluable and of the highest quality. He was highly complimentary concerning the skills and reputation of the program’s leadership and staff.

Some staff members are hopeful that program resources will eventually allow them to take even more cases that will require advanced litigation tools such as motion practice and discovery.

Under its Basic Field grant (\$38,000), CILS’ Eastern Sierra Legal Assistance Project closed 85 cases in 2008. This number represents 234 cases per 10,000 poor, which is within CSR norms. All but one of these were limited service cases.

#### **Criterion 2. Private Attorney Involvement**

**Finding 10: Although CILS will meet its PAI obligation for 2008-2009, it plans resume its previous practice of requesting a waiver of the obligation.**

The CA-1 service area basic field funding (\$36,227) serves a scattered poverty population in three large remote counties. The basic field component is known as the Eastern Sierra Legal Assistance Project and is served out of the Bishop office, which is staffed by a part-time administrative assistant and a paralegal. The lack of staff, the sparse population, and the dearth of private counsel make it difficult for the program to administer a PAI component. In the past CILS has requested and been granted waivers of the PAI requirement. This was overlooked during the transition period between directors, and late in 2008 the program formed a fledgling contract component to address its obligation. CILS closed a single PAI case that year and expended only \$482 of their \$4,095 requirement. As a consequence, \$3,613 was added to their 2009 requirement of \$4,528.

At the time of the visit the Bishop office had referred several PAI cases to a long-time local attorney and expected to exhaust the entire PAI requirement for 2008-09. The contract attorney was interviewed during the visit and indicated that he has no long-term interest in the PAI cases and only agreed to take them because of his respect for the work of the program and its Bishop staff. He reported that there are no large law firms for hundreds of miles. The two largest in Bishop consist of two lawyers each. He pointed out that the few attorneys in the general area are all overloaded with work and are unlikely to assist with the program's PAI component. He also indicated that the area attorneys are unlikely to look favorably upon a pro bono component.

The program hopes to have future PAI requirements waived in order to combine its basic field funds with other funding sources to hire a part-time staff attorney for the Bishop office.

**Recommendation III-10-1:** CILS should resume its previous practice of requesting a waiver of its PAI requirement in order to fund a part-time attorney position.

**Criteria 3 & 4. Other Services and Activities on Behalf of the Eligible Client Population**

**Finding 11: CILS engages in a variety of other services and activities on behalf of the eligible client population.**

In addition to the case work and tribal work, CILS engages in other significant activities that benefit the client population:

- The program conducts a two-day tribal courts conference each year for 175 attendees.
- Staff members attend events and meetings of partner agencies throughout the state.
- Community centers, Area Agencies on Aging (AAA's), Rancherias, and reservations receive presentations on useful topics.
- Staff members participate in roundtables and discussion groups that study regional and statewide issues affecting discrete segments of the client population such as nursing home residents and the frail and elderly.
- CILS staff members monitor legislation that affects the client community, write articles and pamphlets about the law, and respond to legislative requests for information.
- CILS has an attractive website under construction where potential clients are already able to access useful information concerning a variety of topics.

See also Performance Area 2, Finding 4.

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

**Criteria 1 & 2. Board Governance and Program Leadership**

**Finding 12: CILS has improved its governance and leadership.**

The CILS board consists of 13 trustees, four of which must be California attorneys. The remaining nine must be Indians indigenous to California. At least four of the Indian trustees must, when selected, be eligible to be a CILS client. This configuration existed at the time of the creation of LSC and was continued through a waiver pursuant to 45 CFR §1607.6.<sup>3</sup>

The chair, who is a member of a Southern tribe, started as a board trustee in 1994 and has been chair for five years. Trustees serve for three years or until qualification of their successors. Non-attorney trustees shall not serve for more than two consecutive terms when there are eligible replacements that have been nominated.

The board is widely dispersed across the state. The chair indicated that the board is conscientious about achieving representative equity for the state's regions and cultures. This includes balancing north-south representation, which currently stands at 5-4 respectively. The board is looking to fill a position and hopes to find a person from the Palomar Mountain Range. They seek to find trustees from poor areas of the state when possible. They also seek trustees with skills that can assist them in their duties. For example, they hope to find someone with probate skill to help the board understand AIPRA matters. The board also has a rule that tribal board trustees may not promote issues important to their particular tribes. Board members receive a binder that contains orientation materials concerning the CILS' organization and history.

The chair indicated that the board meets quarterly and strives for two in-person meetings per year, although logistics for such meetings are a significant challenge for a board that represents a state as large as California. The board might have to limit in-person meetings to one per year and conduct the remainder by conference call.

Standing committees on the board include the executive committee, personnel committee, audit committee, and financial committee. The audit committee meets with the executive director and controller to review and approve the audit for presentation to the full Board for their acceptance of the audit committee's recommendation. The full Board then meets with the audit committee chair to accept or not accept the audit committees' recommendation. The finance committee meets prior to each board meeting to review the program's financial status with the controller. It also meets as needed throughout the year to review and provides input on investments, financial expenditures, and year end financial reports. The personnel and executive committees meet as needed when matters within their purview need to be addressed.

A few weeks after the new executive director took office in the fall of 2007, CILS was mentioned in press coverage of a report regarding alcohol purchases and credit card late fees. Since that time, the board meetings have included regular updates on the status

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<sup>3</sup> § 1607.6 Waiver. (a) Upon application, the president shall waive the requirements of this part to permit a recipient that was funded under § 222(a)(3) of the Economic Opportunity Act of 1964 and, on July 25, 1974, had a majority of persons who were not attorneys on its governing body, to continue such nonattorney majority.

of CILS' interactions with the three oversight offices at LSC (OIG, OCE, and OPP) as well as the GAO. The program has taken actions to improve the program's financial operations. Immediately after being hired, the executive director attended a financial management for legal services programs conference. The program hired a full-time controller in January 2009. The controller is registered to attend the same financial management event as did the director, including the specialized section of the conference regarding LSC's special financial management regulations. The board has encouraged the executive director to continue her training in financial management.

The chair states that when the prior executive director resigned, the board began stepping up its role and the standing committees became more active, holding conference calls several times per month. The board has formed a strategic planning group to develop long-term strategies for the program.

The chair characterizes staff participation in its meetings as having been high in the past. Staff presentations were once a routine part of each board meeting. Over the last few years staff participation has declined. Both the chair and the executive director indicate that they are encouraging staff to attend board meetings and intend to make staff presentations a regular agenda item.

The executive director has been in place two years. She was previously a law clerk at CILS, then a directing attorney and later a senior attorney. She left the program for several years, during which she represented her own tribe and worked for an Indian land reclamation group in California. She is seen by outside agencies as a knowledgeable leader. She has received a favorable evaluation from the board. Staff members were consulted as part of the evaluation process.

Other members of the program staff are also seen as leaders by outside groups, who were able to name specific individuals who are well-known and respected in the larger community that deals with Native American issues.

**Recommendation IV-12-1:** The board is encouraged to continue with its plan to make staff presentations a regular agenda item at board meetings.

### **Criteria 3 & 6. Overall Management, Administration, and Communication**

**Finding 13: After experiencing a prolonged period of retrenchment and transition between executive directors, CILS now appears to have effective management, administration, and communication.**

CILS has endured a significant retrenchment in the last few years as staff has been reduced by almost two-thirds and non-LSC funding has dropped dramatically (see Program Overview and Finding 7). The program also was without a permanent director for two years. The lack of a permanent director during a period of significant change doubtless caused some difficulties for the program, but the situation appears to have stabilized since the hiring of the executive director in the fall of 2007. Interviews and

responses to the online survey depicted a program with good morale and accessible management.

General communication within the program appears to be effective. (See Finding 8 regarding communications among casehandlers.) Board members feel that the executive director does a good job of communicating the board's expectations to staff. Weekly case acceptance conference calls and meetings of various interest groups provide opportunities for recognition of individual staff accomplishments and program developments. The program is accustomed to making maximum use of effective communications to allay the effect of having key staff spread over vast distances. For example, the director of administration, who handles a variety of functions including HR and compliance, is housed in the Sacramento office, more than 400 miles from the main office in Escondido. The executive director has travelled to the Sacramento office several times in the last year and a half and makes a point of getting to the other offices when time permits. Another aspect of CILS that appears to assist inter-office communications is the fact that at least half of the staff members have worked in CILS offices other than the ones they currently occupy.

Lines of supervision appear to be well defined and known to staff. All staff members have detailed job descriptions. New staff members receive a thorough orientation. Performance evaluations are conducted done annually and timely. Evaluations are used to identify areas for improvement and to help staff members develop their skills. Administrative and support staff have received training in software applications most frequently used by the staff. Some indicated that they would like to receive training assistance from the program to more fully develop other abilities that would meet the organization's needs, such as conference planning.

CILS makes good use of technology and has an extensive technology plan authored by the director of administration, with reference to the plan set out by the San Diego Futures Foundation, a non-profit which provides technology services and support for other non-profits. The plan covers hardware and software needs, data security, networking, training, and technology management practices.

CILS does not have a written disaster plan but has taken certain steps to ensure continuity in a disruptive event. The program has a data backup policy that includes off-site storage. All staff members can employ remote access to work from home. Each staff member has a card which has the phone numbers of all other staff members and directions for who calls whom in case of an emergency.

**Recommendation IV-13-1.** CILS is encouraged to assist the administrative and support staff with skills development as resources permit.

#### **Criterion 4. Financial Management**

**Finding 14:** CILS has hired an experienced controller who has written an accounting manual and works closely with the board and management.

CILS has been dealing with LSC's Office of Compliance and Enforcement (OCE) and Office of the Inspector General (OIG) on several financial management issues that arose in 2007 and the first half of 2008. These issues are detailed in letters to the program from OCE and in reports by OIG and OCE. During much of the period that gave rise to the issues detailed in those reports and letters, CILS was without a permanent executive director or financial staff. In January 2009, CILS hired a controller with 30 years of experience with non-profits, government contracts and grant management. His first duty was to work with the board's finance committee in the development of a detailed accounting manual. This has been completed. He reports that he works closely with the board and meets with the board finance committee prior to every meeting to review quarterly financial statements.

See also Finding 12 detailing board oversight of fiscal issues.

#### **Criterion 5. Human Resources Administration**

##### **Finding 15: The Human Resources function at CILS appears to be effectively administered.**

The director of administration has the responsibility for administering the program's HR component. The table of contents of the HR section of the CILS Program Administrators' Manual contains a substantial outline of items related to this function. Employee benefits include full medical and dental insurance with full family coverage or an opt-out payment, sick and vacation leave, long-term disability insurance, and cost-of-living adjustments when the budget permits.

#### **Criterion 7. General Resource Development And Maintenance**

##### **Finding 16: CILS is pursuing new sources of funding after experiencing a sharp drop in non-LSC funding in recent years.**

CILS' non-LSC funding is more than a million dollars less than its high point in 2005. This loss occurred incrementally as several senior staff departed and engaged in tribal work in private practice. This had the dual effect of reducing the amount of tribal contract work for the program and reducing the staff's ability to handle any new work that might become available. The program has also had reductions in state and IOLTA funding. Non-LSC funds appear to have stabilized at a lower level and currently stand at \$1.1 million (53%) in the 2008-09 budget. CILS continues to receive funds from tribes, tribal courts, local governments, area agencies on aging, and contributions.

CILS does not have a dedicated resource developer on staff. The board and management are strategizing concerning new approaches to fundraising. The board chair indicated that her new goal is to for every trustee to make a contribution and for all trustees to accept fundraising as a board responsibility. She discussed a past approach that was used by CILS — a "Friends of CILS" organization composed of board members,

staff, and outside persons that concentrated on resource development. The executive director expects to add to the program's income over time by pursuing other sources, such as the California Endowment. The new controller has fundraising experience and is adding his ideas to the effort.

Although CILS does not currently produce an annual report, it plans to do so for the first time this fall. CILS does produce an attractive, professional 16 page newsletter that appears to be a fair equivalent of an annual report for fundraising purposes. It is LSC's experience that the providers that are most successful at fundraising have found the yearly production of an annual report to be an integral part of their fundraising efforts. With only slight alteration the program's newsletter would easily meet that need.

**Recommendation IV-16-1:** Program leadership should set a fundraising goal and develop a plan for achieving it.

**Recommendation IV-16-2:** CILS should produce an annual report as part of its new fundraising strategy.

**Criteria 8 & 9. Coherent, Comprehensive, and Integrated Delivery**

**Finding 17: CILS has a coherent, comprehensive delivery structure that is effectively integrated with the activities with other providers at the state and local level.**

The CILS approach combines (1) tribal development and tribal court work, (2) broad scale brief services, (3) selected high-value individual cases, and (4) extensive work with a variety of partners. Discussions with CILS' external partners revealed that its staff is visible in activities throughout the state on behalf of Native Americans. All were aware of the annual tribal court conference and described it as highly effective. The program's listing of significant accomplishments in joint activities with other groups is replete with impressive examples of activities that will have lasting, significant effects.

Outside agencies depend upon CILS for its expertise, particularly in ICWA matters and on issues regarding tribal recognition and tribal court development. The director of a substantial tribal consortium indicated that his organization's lawyers frequently ask CILS staff for assistance on matters both in and out of court and have at least weekly contact with them. A CILS attorney regularly attends their meetings.

CILS staff members have developed handbooks for social workers regarding ICWA. They have conducted community education events for Indians interested in small business development. They have also forged a partnership with the Legal Aid Society of Orange County to replicate parts of its "ICAN e - file" project to assist Indian tax payers with their returns for the past five years.

See also Findings 4 and 11.