



LEGAL SERVICES CORPORATION  
OFFICE OF PROGRAM PERFORMANCE  
FINAL REPORT

***PROGRAM QUALITY VISIT***

***For***

***Kentucky Legal Aid  
Recipient No. 618036***

***November 3 through 6, 2008***

***LSC Review Team***

***Tillie Lacayo, Program Counsel, LSC Office of Program Performance (Team Leader)  
Michael Genz, Program Counsel, and Cheryl Nolan, Program Counsel,  
LSC Office of Program Performance***

## TABLE OF CONTENTS

<b>DESCRIPTION</b>	<b>PAGE #</b>
<b>INTRODUCTION</b>	1
<b>OVERVIEW OF SERVICE AREA</b>	1
<b>OVERVIEW OF PROGRAM</b>	1
<b>FINDINGS AND RECOMMENDATIONS</b>	3
<b>PERFORMANCE AREA ONE: <i>Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.</i></b>	3
<b>PERFORMANCE AREA TWO: <i>Effectiveness in engaging and serving the low-income population throughout the service area.</i></b>  A. Dignity and sensitivity & access and utilization by the low-income population B. Engagement with the low-income population	5
<b>PERFORMANCE AREA THREE: <i>Effectiveness of legal representation and other program activities intended to benefit the low-income population in its service area.</i></b>  A. Legal representation 1. Legal work management 2. Quality of legal work 3. Coordination of legal work and strategic advocay 4. Quantity of legal work 5. Training  B. Private attorney involvement  C. Other program services to the eligible client population and other program activities on behalf of the eligible client population	7
<b>PERFORMANCE AREA FOUR: <i>Effectiveness of governance, leadership and administration.</i></b>  A. Board governance  B. Leadership	14

<p>C. Overall management and administration</p> <p>D. Financial administration</p> <p>E. Human resources administration</p> <p>F. Internal communication</p> <p>G. General resource development and maintenance</p> <p>H. Participation in an integrated legal services delivery system</p>	
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## INTRODUCTION

From November 3 - 6, 2008, the Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a Program Quality Visit to Kentucky Legal Aid (KLA). OPP's team consisted of three program counsel.

Through its Program Quality Visits, OPP seeks to ensure that LSC grantees are providing the highest quality legal services to eligible clients. 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. Careful consideration was given to: KLA's narrative submitted in the last competition cycle; the grant renewal narrative submitted in 2008; case and other services reports; and other reports or documents submitted by KLA to LSC over the past year; numerous documents submitted by KLA in advance of the visit, including advocates' writing samples; and a survey of staff conducted through Survey Monkey. OPP's assessment considered KLA's work in the context of the four Performance Areas: needs assessment and the priority setting processes; engagement of the low income community, including intake; legal work management and quality of legal work; and effectiveness of governance, leadership, and administration, including program management, resource development, and coordination within the delivery system.

Team members visited KLA's Bowling Green office, which houses its administrative component, and its Madisonville office. The team interviewed program staff from all KLA offices; including the executive director, associate director, financial administrator, managing attorneys, staff attorneys, the pro bono/human resources director, legal assistants,<sup>1</sup> administrative staff, and support staff. In addition, team members interviewed board members, community representatives, judges, leaders in the state justice community, and bar representatives. Due to scheduling and time constraints, some of these interviews were conducted by telephone.

## SUMMARY

KLA serves 35 of the state's 120 counties in western Kentucky. The program's service area encompasses 13,895 square miles and includes a poverty population of 133,036.<sup>2</sup> The region is primarily rural and has experienced a moderate growth in its Hispanic population in recent years. The four largest towns have populations ranging from 30,000 to over 60,000. In addition to the rural nature of the service area, challenges include serving a large geographic area and the limited availability of outside resources, including the lack of a law school.

The program provides services through four offices – in Bowling Green, Madisonville, Owensboro and Paducah - and three satellite offices. KLA has forty-five persons on staff, nearly half of whom are attorneys. The KLA advocacy staff also includes legal

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<sup>1</sup> Legal assistants at KLA are the equivalent of paralegals.

<sup>2</sup> U.S. Census for 2000.

assistants, who provide public benefits counseling and/or carry individual caseloads, under attorney supervision.

KLA provides a full range of civil legal services to poor persons throughout the service area.<sup>3</sup> It has developed a comprehensive centralized intake, counsel and advice, and brief services unit that operates from its administrative office in Bowling Green and is a hallmark of the program. KLA also has a thorough and comprehensive program and staff evaluation system that focuses on outcomes and the effect that its services have on clients' lives. The assessment tool relied upon by the program to gauge productivity measures both outputs and outcomes, and also serves as the program's performance evaluation instrument.

Program leadership, which guided KLA through a service area reconfiguration eight years ago,<sup>4</sup> is strong and has the abiding respect of staff throughout the program. The program's legal work management system is well-developed, and exists not simply on paper but in practice. Managers are in ongoing contact with the staff they supervise, are aware of the work being done by their staff, and provide regular feedback and annual performance evaluations. The program has an experienced staff of advocates capable of producing quality legal work. KLA has good staff longevity despite its modest salaries. The program is extremely productive and handles a high volume of both extended and limited service cases. The majority of cases closed by the program fall into the area of family law and much of the legal work tends to be routine in nature. The program is somewhat insular with regard to its legal work and participation on statewide task forces is sporadic.

The program has a board of directors that is knowledgeable and informed concerning KLA's mission and the work of program advocates. However, the board has received little formal training.

PAI is an ongoing challenge in the service area, due in no small part to its rural nature. However, PAI participation has increased over the past couple of years.

Technology, administrative and financial systems, and human resources administration all appear strong. The program suffered an unexpected reduction in the state legal services appropriation for 2008<sup>5</sup> and expects a reduction for 2009 as well. That, coupled with an anticipated drop in IOLTA funding for 2009, will present a challenge to meeting the ever-increasing demand for legal services. There is serious discussion within the state

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<sup>3</sup> In addition, the program provides housing and benefits counseling services, long-term care ombudsman services, and pro bono assistance.

<sup>4</sup> On January 1, 2001, Cumberland Trace Legal Services assumed responsibility for the service area covered by Western Kentucky Legal Services under the latter program's LSC grant and changed its name to Kentucky Legal Aid.

<sup>5</sup> The overall funding loss to legal services in Kentucky was \$1,000,000 for the fiscal year. KLA suffered a cut of approximately \$166,000 for 2008. As a result, the program was forced to eliminate three positions: a non-attorney benefits advocate, an intake paralegal, and the information systems manager. The process did not include any staff lay-offs.

of establishing an Access to Justice Commission, which could act as a catalyst to spur increased support – economic and otherwise – for legal services in Kentucky.

## FINDINGS AND RECOMMENDATIONS

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

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

**Finding 1: KLA last conducted a comprehensive legal needs assessment in 2000.**

KLA has not engaged in a formal, comprehensive needs assessment since the expansion of its service area in January of 2001. The program intended to undertake a needs assessment in 2008. However, in the wake of financial pressures brought about by the aforementioned reduction in state funding, the program delayed its plans.

KLA submits program-wide priorities to its board of directors annually for their approval, after making any revisions the program deems appropriate. Priorities approved by the Board for 2008 are: to decrease child poverty by increasing self sufficiency of low-income, single-parent families; to improve the quality and stability of housing for low-income families; to reduce long-term domestic violence; to improve health care for impoverished children and elderly individuals; to provide economic protection for low-income families and elderly individuals who have been victimized by fraud or financial abuse; and to improve the quality of life of impoverished elderly and disabled individuals.

Despite the lack of a recent legal needs assessment, the program is responsive to changes in demand for services based upon emerging legal needs. For example, it responded to changes in Medicare by providing advice, counseling, and assistance in the selection of Medicare Prescription Drug Plans, to changes in Medicaid by working to keep clients in nursing homes through the creation of Qualified Income Trusts, and to crises in the consumer and foreclosure areas by increasing its legal work in those areas.

**Recommendation:**

**I.1.1.<sup>6</sup>** KLA should make every effort to conduct a needs assessment during 2009, even if on a smaller scale due to resource limitations. Because the relative percentage of housing cases closed by KLA is below the national median and KLA has sought to determine why this is so, LSC suggests that the program make a special effort to obtain

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<sup>6</sup> Recommendations are numbered as follows: The Roman numeral references the Performance Area followed by the finding number and lastly by the recommendation number that pertains to the finding.

input into the next needs assessment from community organizations that assist low-income persons with housing problems.

**Criteria 2, 3 and 4. Setting goals and objectives and implementation of same; and evaluation and adjustment.**

**Finding 2: KLA sets program, office and employee goals for each year, evaluates the extent to which goals have been met, and makes adjustments accordingly.**

KLA has an impressive program evaluation system. It regularly analyzes and evaluates the effectiveness of its delivery strategies and work. Each year, the program sets measurable outcomes, or goals, for each office and for each employee. Employees' progress in meeting goals identified is carefully tracked and reviewed yearly, as part of the performance evaluation process. Outcome objectives may include such varied indicators as persons assisted to obtain rental housing, monthly child support or maintenance established, the value of property obtained or indebtedness avoided in family law cases, persons assisted in obtaining public benefits or the value of the benefits obtained, the value of health care established (annual or lump sum), the number of victims assisted through establishment of protective orders, the number of co-counseled cases, the number of extended service cases handled, the amount of time spent in court, the number of persons able to gain employment due to expungement of prior records, and car loan disputes favorably resolved to maintain transportation for jobs and medical care.

The outcomes assessment process is not only a measure of what has been achieved by each individual employee and by the program as whole, but also acts to motivate employees by providing them with tangible evidence of their achievements over the previous year. It also sets benchmarks to strive for in the coming year. Though goals are assessed as part of employees' yearly performance evaluations, attainment of the goals is not tied to salary increases.

Goals are incrementally modified each year, based on the previous year's experience, including any changing or emerging needs identified by the program. At the end of the year, the program reviews its performance as an organization based upon the extent to which measurable projected outcomes have been met. KLA's evaluation process reflects the standards set in the LSC Performance Criteria and appears to be used effectively to both motivate staff and improve program performance.

KLA's evaluation process also includes dissemination of satisfaction surveys to all Title III Older Americans' Act clients and all pro bono clients. The program addresses problems identified in survey responses by following up as needed with staff.

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

**Criteria 1 and 3. Dignity and sensitivity and access and utilization by the low-income population.**

**Finding 3: KLA has a strong, integrated and coordinated centralized intake system. KLA's intake operations are carried out in ways that affirm client dignity and are sensitive to client circumstances.**

The Intake Unit is staffed by a directing attorney with over 20 years of experience in legal services, two full-time intake attorneys, a part-time PAI contract attorney, a full-time intake paralegal, and two part-time intake specialists, one of whom is bilingual in Spanish and English. Intake staff are very knowledgeable of substantive law issues and problems affecting the client community. Staff participate in substantive law trainings and task force meetings.

Applicants for services contact the program through a single toll-free number. They are initially screened for eligibility by an intake specialist and are transferred to an advocate for case evaluation, the provision of counsel and advice and/or brief services, and, where appropriate, referral of the case to a branch office advocate for provision of extended services. The Intake Unit determines which cases will be referred for extended services and prepares case plans for all cases so referred. The case plans are sometimes modified by the extended service advocate handling the case, as deemed appropriate. Rejection of cases referred by the Intake Unit for extended services requires the preparation of a "request to decline" and approval of the branch office managing attorney and by the associate director.

Staff providing extended services gave much positive feedback concerning the Intake Unit to the LSC team. These advocates uniformly appreciate that KLA's intake system allows them to spend more time on extended service casework.

KLA's intake operations are carried out in ways that affirm client dignity and are sensitive to client circumstances. KLA's office hours – from 9:00 AM to 6:00 PM, inclusive of the lunch hour, Monday through Thursday - are convenient for clients, including those who work. KLA states that wait times for screening and initial interviews with advocates are each approximately eight to ten minutes. Intake staff regularly monitors wait times for the screener queue and provides back-up when necessary to prevent longer wait times.

Walk-ins to program offices are directed to contact the Intake Unit by telephone. Privacy for walk-ins is maintained by allowing the applicant to use a conference room or another private area for the telephone interview. Emergencies are handled expeditiously in all offices and by the Intake Unit. Clients receive advice and counsel promptly and decisions are made promptly concerning the provision of extended services. Letters confirming advice given are sent in every case.

**Recommendation:**

**II.3.2.** To the extent that resources permit, the program should provide opportunities for the Intake Unit director to share his knowledge and successes with the broader legal services community by occasionally attending national conferences.<sup>7</sup>

**Finding 4: KLA's main office, in Bowling Green, and its three smaller offices are well-located throughout the service area; the program also maintains three satellite offices, all of which maximize access for clients.**

KLA's central office in Bowling Green houses the program's management and administrative staff, its Intake Unit, and the extended services staff for the Bowling Green office. The office is well-designed and furnished and is a model work environment for staff. The professional image projected by the office is reflective of how KLA clients are treated throughout the program.

In addition to the main office and three branch offices (Madisonville, Owensboro, and Paducah),<sup>8</sup> the program also provides services from three satellite offices<sup>9</sup> located in Glasgow, Hopkinsville, and Scottsville. In addition, staff regularly conduct outreach and intake at senior centers. The branch offices appear to be well located in the communities they serve. Each office covers designated counties in the service area.

**Finding 5: KLA has a written policy on serving limited English proficient populations; however, there is only one staff person at KLA who speaks Spanish.**

The program has a Limited English Proficiency (LEP) policy that conforms to the guidance of LSC Program Letter 04-2 on serving limited English proficient populations. Staff have received training on the policy. Staff interviewed seemed knowledgeable on the use of Language Line and use interpreters from outside the program, when necessary.

There is only one Spanish-speaker on staff, the payroll clerk, who handles Spanish-language intakes and has back-up reception responsibilities. This presents a challenge to reaching the non-English speaking Hispanic community. Poor Hispanics constituted 2.16% of the poverty population, as of the 2000 Census. Interviews with KLA staff and personnel from organizations serving the low-income client population reflect that there is a growing Hispanic population in the western part of the state. Spanish speaking persons represented .9% of clients served by KLA during 2007. The program has made efforts to recruit Spanish-speakers but has had limited success thus far.

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<sup>7</sup> Scholarships are available on a limited basis for both the NLADA Annual Conference and the Equal Justice Conference (EJC). Factors considered in the awarding of EJC scholarships are whether the applicant is a presenter at the conference, whether he or she has participated in a prior conference, and the extent to which he or she engages in pro bono.

<sup>8</sup> Plans to relocate the Paducah office were put on hold because of the reduction of state funding discussed above.

<sup>9</sup> In satellite offices, the program does not always have staff present on a daily basis.

**Recommendation:**

**II.5.3.** The program should continue its efforts to augment its Spanish language capacity and may wish to expand its contacts with nonprofit organizations in the service area that have greater day-to-day contact with the Hispanic population.

**Criterion 2. Engagement with the low-income population (client and community relations, work with community organizations)**

**Finding 6: KLA works closely with organizations and agencies in the counties it serves and provides community education using a variety of methods.**

Interviews with community organizations and agency personnel and with KLA staff reflect that the program works with a variety of organizations and agencies in its service area, particularly those that assist victims of domestic violence, such as Women Aware, Barren River Area Safe Spaces, and Sanctuary, but also with those that help the elderly,<sup>10</sup> that advocate on behalf of children,<sup>11</sup> that focus on housing and homelessness,<sup>12</sup> and that provide a variety of support services to the poor.<sup>13</sup>

Program advocates also make community education presentations in a variety of settings including senior centers, nursing homes, and subsidized housing units. Community education pamphlets and brochures are distributed by program advocates during outreach and community education events and are available for clients at local offices.

KLA also produces a television program with monthly topics. The initial focus of the program was on elder law issues, but it has recently expanded into other areas. For example, an experienced housing law attorney at KLA was a recent guest on the program.

**Performance Area Three. *Effectiveness of legal representation and other program activities intended to benefit the low income population in its service area.***

**Criterion 1. Legal representation**

**Finding 7. KLA has implemented protocols and policies which are sufficient to effectively manage the program's legal work.**

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<sup>10</sup> For example, the benefits director in the Bowling Green office is on the Elder Abuse Prevention Council and a staff attorney in Owensboro attends the Aging & Disability Resources Market monthly meetings. Program attorneys also visit senior centers and nursing homes to make presentations on living wills, guardianships, and powers of attorney.

<sup>11</sup> An attorney in the Bowling Green office is on Barren River Child Advocacy's Board of Directors.

<sup>12</sup> The most experienced housing attorney in the program works with HANDS, a nonprofit organization that assists low-income persons wishing to buy a home and is on the board of directors of the Welfare Center, which helps poor persons with rental assistance and utilities.

<sup>13</sup> An attorney in the Paducah office works with the Purchase Area Development district, a partnership organization in western Kentucky that offers support to city and county governments to develop innovative approaches to local and regional challenges.

Good legal work management and supervision systems are scrupulously followed by managers. Written case management protocols are adhered to. Advocates' cases are reviewed regularly by their managing attorneys. Newer attorneys have their written work reviewed, initially shadow more experienced attorneys to court, and are observed at initial hearings by more experienced attorneys. Advocates regularly enter their case notes into the case management system, facilitating supervision.

Formal systems are supplemented by informal methods of supervision ("open door"). Program advocates and their supervisors make extensive use of instant messaging throughout the program. Yearly performance evaluations are conducted for all staff. Though outcomes are a significant part of the evaluation process, other aspects of staff performance, as well as professional development and training, are assessed.

**Finding 8: The program has many experienced advocates on staff who are knowledgeable and skilled in their areas of practice and who are professional in their representation of clients.**

The experience level of the advocacy staff is high and turnover is low. Advocates appear very knowledgeable and competent in the areas of law in which they practice, as reflected in writing samples reviewed, during interviews by the team and in comments from judges before whom the advocates practice. The judges referred to program attorneys as "excellent", "outstanding", and "highly professional". Writing samples submitted were generally well-prepared, apart from a few proofing errors in some samples.

There are experienced attorneys in all offices of KLA. Though many program advocates are generalists, a few have areas of interest and focus. Program advocates do not hesitate to call upon their colleagues in other offices who have special expertise. Given the program's funding level, the offices are appropriately staffed.

Attorneys at the program have a fair amount of courtroom experience, primarily in domestic relations cases, but also in some other areas such as consumer law. Staff have also handled some appellate cases, including a custody case at the Kentucky Court of Appeals, and a recent case before the Kentucky Supreme Court on a Due Process issue concerning assessment of the fees of a warning order attorney<sup>14</sup> against an indigent defendant.

The quality of the program's legal work in the two aforementioned cases was excellent and the quality of KLA's legal work in general is good.

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<sup>14</sup> A "warning order attorney" was appointed by the family court judge in Kentucky to notify an out of state defendant of a pending action against him. The warning order attorney then attempted to have fees assessed against both KLA and its indigent client. The claim against Kentucky Legal Aid was dismissed by the Court of Appeals.

**Finding 9: Much of the program's legal work is routine and KLA currently lacks a vehicle for development and coordination of systemic advocacy.**

The legal work at KLA, overall, does not appear to be very challenging and many of the cases seem routine in nature, given the experience level and abilities of staff. Though systemic work has been done by the program in the past, little is occurring at present. However, on-site interviews with staff revealed an expressed interest in doing more impact work, such as addressing conditions in a substandard federally subsidized housing complex, or addressing problems in the foreclosure and consumer areas.

Program legal assistants, under the supervision of a licensed attorney, draft pleadings and prepare clients for hearings in uncontested divorces involving children. Though the legal assistants' work in these cases greatly increases the program's capacity to handle cases and augments the number of extended case closings, the cases are for the most part very straightforward and should be susceptible to being handled by pro bono attorneys and in some cases through assisted pro se.

There is no one on staff who serves in a director of advocacy capacity with regard to overall coordination of the program's legal work. The associate director, who has over 25 years of experience in legal services, tries to encourage systemic thinking among staff, however his other responsibilities<sup>15</sup> leave him limited available time in which to do this.

For most advocates at KLA, statewide task force participation is largely limited to being on listservs. This is due primarily to the fact that most task force meetings are held in Lexington. Despite this, KLA advocates interviewed expressed an interest in task force participation and most are active on listservs. A few are members of several task forces and stated that they attend meetings whenever they can – family law, consumer, and housing being the most frequently attended.

**Recommendations:**

**III.9.4.** The executive director should work with other Kentucky project directors and the Kentucky Equal Justice Center director to develop ways to increase task force participation, including scheduling more meetings in places that minimize the travel burden on staff located far from Lexington or enhancing distance participation by greater use of technology. The program should explore the use of videoconferencing or "Go to Meetings", which has been used by the program's systems administrator.

**III.9.5.** The program should hire or designate a director of advocacy to foster and coordinate program advocacy and encourage advocates to think systemically in their approach to legal work.

**III.9.6.** The program should work to place more of its uncontested divorces involving children with pro bono attorneys to free staff time – including that of the legal assistants -

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<sup>15</sup> He serves as managing attorney of the Bowling Green office and coordinates with the systems administrator in customizing the program's management information system.

for the increasing number of housing and consumer cases that are presenting themselves as a result of the economic downturn. The program might also consider pro se assistance in simple uncontested cases, so that advocates may focus on handling more cases in which the client is unable to proceed without an attorney.

**III.9.7.** The program should attempt to increase the complexity of its legal work, with a view to having a greater beneficial effect on systemic legal problems faced by the client population .

**Finding 10: KLA is an extremely productive program that produces a high volume of quality work. Most legal work is in the area of family law, though consumer and housing cases constitute a growing part of the program's caseload.**

The program closes a high volume of cases each year. Though a large percentage of the program's closed cases during 2007 fell into the limited services category (83.6%), both its closed cases per 10,000 poor persons (566) and its closed extended service cases per 10,000 poor (92) are well above the national median.<sup>16</sup>

Approximately 57.6% of KLA's cases closed during 2007 were in the area of family law. Roughly 18% were consumer law cases, 7.9% fell into the area of housing and 6.1% were income maintenance cases. The percentage of the program's closed cases is significantly above the national average for family law and significantly below the average for housing. KLA is aware of this variance and has given thought to ways it can increase its housing work. Approaches such as hiring a part-time contract staff attorney in Owensboro to handle exclusively family law cases is serving to increase available time for the other attorneys in the office for non-family law work.<sup>17</sup> A couple of advocates posited that members of the low-income population were not aware that the program handles housing and consumer cases.

Interviews with extended services staff indicate that they are handling an increasing number of cases in the areas of both housing and consumer law. A number of advocates interviewed expressed an interest in expanding case work in areas other than family law, most notably mortgage foreclosures and consumer law. Several advocates, when asked to discuss a case that had particular significance for them, mentioned consumer "bottom feeder" cases, where poor persons, often elderly individuals living on social security, were sued on old debts. The cases often resolve promptly and favorably in the client's behalf, once an attorney becomes involved and begins to conduct discovery. Also, staff have successfully handled a number of unemployment compensation cases recently, on appeal to the Circuit Court or the state Unemployment Appeals Commission.

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<sup>16</sup> The national median of all closed cases per 10,000 poor persons is 253. The national median of extended closed cases per 10,000 poor is 53.

<sup>17</sup> Assistance that the program might provide in landlord-tenant cases is limited by the fact that the Uniform Landlord Tenant Law has not been adopted in the jurisdictions in which program advocates practice. The executive director states that efforts to extend the law to the area of Kentucky served by the program have been unsuccessful.

**Recommendation:**

**III.10.8.** Targeted outreach to organizations that work in areas in which KLA is looking to expand program legal work, such as groups that assist poor persons with housing and consumer problems, may serve to further increase the requests for assistance the program receives in these areas. Such outreach might also be coupled with informal “mini” needs assessments in these areas.

**Finding 11: Program staff is offered the opportunity to attend a variety of regional and state trainings; both substantive and skills trainings are provided.**

KLA affords its advocate and non-advocate staff appropriate substantive and skills training opportunities. Most are regional or statewide, but some, such as foreclosure mitigation training, SSA webinars, and the LSC TIG conference, are national. For example, staff attended the Kentucky Access to Justice Foundation (ATJF) statewide sponsored legal services conference, ATJF-coordinated substantive law trainings held throughout the year, Kentucky Bar Association CLE seminars, housing counseling trainings, Basic Lawyering Skills Training (BLAST) for newer attorneys, and a variety of other trainings. Program staff also serve as presenters at poverty law trainings in Kentucky and national skills trainings.<sup>18</sup> One of the part-time contract staff attorneys interviewed by the team was unable to attend a training due to a schedule conflict that related to his non-KLA employment.

Training resources were reduced slightly by KLA in 2008, after the reduction in KLA’s state legal services appropriation. With a significantly smaller state legal services appropriation, training resources in Kentucky may be further reduced during 2009.

**Recommendations:**

**III.11.9.** Program leadership should meet with other state legal services organizations and with the ATJF director to identify other potential funding sources for statewide legal services trainings in Kentucky.

**III.11.10.** The program should ensure that its part-time contract staff attorney is able to attend any needed trainings.

**Criterion 2. Private Attorney Involvement (PAI).**

**Finding 12: KLA’s PAI component is professionally and competently operated and participation in the service area has increased over the past two years; however, PAI continues to be a challenge for the program.**

The KLA Board of Directors demonstrated its commitment to enhancing pro bono participation by adopting the LSC Board’s model PAI resolution on October 2, 2007.

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<sup>18</sup> An attorney in the Bowling Green office was a trainer at an ATJF unemployment law seminar in the Fall of 2007. An attorney in the program’s Madisonville office is a regular trainer at BLAST in Florida.

Direct case referral to pro bono attorneys is the primary component of KLA's private attorney involvement. Until a few years ago, the PAI effort was operated exclusively out of the Bowling Green office by the pro bono director and a pro bono coordinator, both of whom are full-time. It now includes the entire service area. The pro bono director oversees operation of the program and provides management and supervision of cases placed through Lawyers Care, KLA's pro bono program. The pro bono coordinator is responsible for the placement of individual cases with private attorneys and follow-up on placed cases. The Bowling Green coordinator also serves in that capacity for the program's Madisonville office. The managing attorney of Owensboro has responsibility for PAI in that office.

Pro bono coordinators carefully monitor cases that are assigned to pro bono attorneys. Within a few weeks of referral, the pro bono coordinator checks to make sure that contact has been made by the client and that work on the case has begun. The coordinator monitors case progress periodically thereafter. Interviews with members of the private bar confirm that follow-up occurs on a regular basis.

KLA's PAI effort is augmented by two reduced fee private attorneys on contract. One of the attorneys handles cases in the remote "river counties" in the westernmost part of the Paducah office's service area. The second PAI contract attorney works in the Intake Unit. The presence of the contract attorney in the Paducah service area boosts staff capacity in that office and increases available time for Paducah office staff attorneys to handle cases in areas other than family law.

Recent Kentucky Bar Foundation funding has led to regional pro bono projects for McCracken<sup>19</sup> and Daviess<sup>20</sup> Counties. While these are joint projects of the respective county bar associations and KLA, they are operated by the branch office managing attorney and a pro bono coordinator in each office. The Bar Foundation reports that it is very satisfied with the progress of these two projects.

Intake for pro bono cases is identical to intake for non-PAI cases. Once the Intake Unit staff identifies a case that is appropriate for PAI placement, they prepare a summary and a case plan and refer the case to the pro bono coordinator for placement with a private attorney.

The program's closed PAI cases roughly mirror case types closed by the program as a whole. For example, 54.4% of the PAI cases closed during 2007 were in the area of family law. However, while program attorneys handle a broad range of divorce cases, only uncontested divorces involving no children are placed with pro bono attorneys. The program indicated that the private bar is resistant to taking other types of divorces.

KLA engages in appropriate recruitment, retention, and recognition efforts. Liability insurance is offered, as is reimbursement for certain expenses. In conjunction with Kentucky Bar Association CLE events in Bowling Green, Paducah and Owensboro, KLA

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<sup>19</sup> In the Paducah office service area.

<sup>20</sup> In the Owensboro office service area.

hosts a luncheon for pro bono panel attorneys. Additional recognition efforts include a Pro Bono Publico award, special recognition awards (such as “best client satisfaction survey response”) and newspaper articles on outstanding pro bono attorney efforts. The program has also enlisted the support of the judicial branch in its pro bono efforts by inviting a Kentucky Supreme Court justice<sup>21</sup> to speak about pro bono at the annual Law Day luncheon in Owensboro in 2007.

The program has a written PAI plan for 2008. The plan does not indicate whether it was circulated to the local bar associations, nor whether the bar associations provided any input into the plan.<sup>22</sup> The plan generally reflects KLA’s PAI activities, but does not note that contract attorneys are part of the program’s PAI effort.

PAI is undeniably a challenge in a service area as rural as KLA’s. Though the number of PAI cases closed has increased significantly since 2005,<sup>23</sup> a large percentage of the cases fall into the limited services category and many of the extended service cases are uncontested divorces with no children.

#### **Recommendations:**

**III.12.11.** KLA should review its policy of referring uncontested divorces with no children to pro bono attorneys. While such cases are of undeniable assistance to clients, other ways of utilizing the resources of the private bar would be more helpful to the client community and put scarce legal resources to better use. The emergence of pro se forms in family law cases in Kentucky might also lead to increased pro se assistance. In addition, the program should consider referral to PAI attorneys of uncontested divorces with children.

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

**Finding 13: KLA provides a variety of other services that benefit the eligible population.**

KLA has a Long-Term Care Ombudsman Program that operates out of the Bowling Green office. The program provides information and assistance to residents of long-term care facilities and their families and includes a cadre of 22 volunteers who are certified to act as advocates for the residents. One judge interviewed had high praise for the program’s Ombudsman and remarked that she has helped many elderly persons going through difficult divorces or who were victims of spousal fraud.

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<sup>21</sup> Now Chief Justice of the Kentucky Supreme Court.

<sup>22</sup> During her on-site interview, the pro bono director indicated that the plan had been circulated to the local bar associations and that the program had received no comments from the bar associations in response concerning the plan.

<sup>23</sup> The program closed 73 PAI cases in 2005, 362 in 2006, and 522 in 2007.

The program is also working with the Circuit Court in Warren County (Bowling Green) and with the Legal Aid Society in Louisville on development and utilization of on-line self-help forms in the family law area.

**Performance Area Four. *Effectiveness of governance, leadership and administration.***

**Criterion 1. Board governance**

**Finding 14: KLA board members are knowledgeable about the program, appear engaged in the program's work, and exercise appropriate oversight of program activities.**

KLA is governed by a 15-member board composed of ten men and four women. There are three African-Americans on the board and no Hispanics. Board members are from all geographical sectors of the service area. Currently there is one vacancy on the board for a client-eligible member. Each member is appointed for a three-year term. There is no limit on the number of terms a member may serve.

Four board meetings are held a year and quorums are regularly reached. Arrangements may be made for members to participate telephonically. Members indicate that they receive written materials, such as financial statements, minutes of the previous meeting, and the agenda for the upcoming meeting, sufficiently in advance of each board meeting for members' review.

While standing committees are established, they do not meet regularly. This includes an audit committee. It is the board chair's view that all board members should be equally involved in review of the program's finances. At each board meeting the program's financial administrator presents a financial report to the full board.

The board's officers are its president and vice-president. KLA's executive director serves as board secretary and its financial administrator, as treasurer, though they are not actual members of the board and have no voting power. This structure is provided for in the program's by-laws.

The board chair is a long-time member of the board and has served in that capacity for approximately five years. The chair's leadership and commitment to the program was praised by other members of the board and by members of the KLA management team.

Several members of the board have been actively involved in efforts to increase funding for legal services in Kentucky. Board members' connections and contacts have been helpful to Kentucky legal services programs in past efforts to secure increased funding. Client board members are active participants who make important contributions to the board. However, neither they nor the attorney board members have received training in the responsibilities of board membership.

The board has a good working relationship with the executive director and had begun the process of evaluating him at the time of the LSC visit.

**Recommendations:**

**IV.14.13.** The board should consider activating the audit committee and expanding its function to include review of the program budget. While the board's desire to have the entire body review the program's financial records is commendable, the initial review by a committee consisting of fiscally knowledgeable board members specifically charged with scrutinizing the budget and its implementation in advance of full board meetings would enhance the full board's review of the program's budget and expenditures.

**IV.14.14.** Training should be afforded the board concerning the various responsibilities of board membership.

**Criterion 2. Leadership**

**Finding 15: KLA's executive director is viewed by staff and the board of directors as a strong and effective leader and held in high esteem. The program's core management staff is highly regarded as well.**

In addition to interviewing the executive director during the visit, LSC team members also received feedback from staff, board members, and community organization personnel concerning program leadership. The team heard uniform praise, not only for the executive director, but for KLA's management team as well. Some of the comments received from staff about the executive director were "he makes you want to achieve", "very approachable", "encourages good work", "open-minded about suggestions", "interested in finding better ways to do things", "instills a wonderful spirit in his employees" and "respects the work that I do". His vision for the program, implemented in part through the centralized intake system and measurable outcomes process, is accepted program-wide.

Together with the board chair, the executive director played a crucial role in the consolidation of the former Cumberland Trace Legal Services and Western Kentucky Legal Services into the current Kentucky Legal Aid. The expansion of the program's service area in 2001 to include the counties covered by Western Kentucky Legal Services and the assimilation of staff from that program was handled extremely well. Not only is KLA fully integrated but former Western Kentucky staff members interviewed by the team indicated that the new program is a much better place to work and far more effective than the former program.

**Criterion 3. Overall management and administration**

The core management staff at KLA consists of the executive director, the associate director, the human resources/pro bono director, and the financial administrator. The managing attorneys and intake director also form an essential part of the broader

management team. Core management team members consult with each other so frequently that they do not schedule regular meetings. The broader managing attorneys group meets quarterly. Management team members have effective control of their areas of responsibility and function appropriately to support the executive director and core management team.

The program has a disaster plan that effectively documents steps to be taken for the program to continue to function and serve clients in the event of a disaster. The program is not currently storing its computer data in a remote location off-site. KLA has discussed collaborating with a sister program in Kentucky, Legal Aid of the Bluegrass, so that each program's data will be stored on the other's server.

The program's associate director also serves as the compliance officer. He oversees the annual LSC compliance self-inspection and holds regular and periodic trainings on LSC compliance requirements. LSC's Office of Compliance and Enforcement noted no significant faults in the compliance structure of KLA in the report from its 2004 visit.

KLA uses technology effectively to enhance the efficiency of program operations and service delivery in its administrative, intake and legal work management systems. Staff make full use of the technology available to help them in their work. Intake staff has desktop access to queue status and use this information to manage incoming calls from clients. Callers may self-select to leave a message or receive a callback. Program advocates enter their case notes into Kemps Prime, the program's case management system. All staff have desktop access to the Internet and Westlaw is available for legal research.

KLA has a systems administrator who is experienced and knowledgeable, and has been with the program for over seven years. Prior to coming to KLA he worked for a computer technology support company. He provides occasional trainings at all-staff meetings on new computer programs and systems.

The program has a technology plan - in essence an upgrade assessment chart - that runs through the year 2011. KLA also has a technology use policy. Its operating system is Windows XP and MS Exchange is used for email.

KLA will be transitioning to open source VOIP to enhance its telephone system and adding much-needed features such as call management tracking and reporting. It has automatic call distribution for intake.

**Recommendation:**

**IV.15.15.** It is recommended that KLA have its computer data stored on a remote server as soon as possible.

#### **Criterion 4. Financial Administration.**

##### **Finding 16. KLA appears to have sound fiscal practices and its financial component is led by an experienced administrator.**

The program's financial administrator, a certified public accountant with previous accounting firm experience, is well qualified for the position. She has developed an accounting manual that comports with LSC requirements. The program has had clean audits while she has been with KLA. Board members interviewed indicated that they have been impressed with her budget presentations at meetings.

The financial administrator works closely with the executive director to design a budget that supports the executive director's plans for the program in the coming year. Some staff members interviewed expressed the sentiment that the program dealt with the recent significant cut in state funding in a way that minimized disruption to the program as a whole and to client services.

The program has had the same external auditor for more than seven years. When the program asked its current auditor about audit firm rotation, they were told that it is not a requirement since the firm rotates the partner who oversees the account and pointed out that the account is on its third auditor.

#### **Recommendation:**

**IV.16.16:** Since changing auditors periodically is considered a prudent practice to avert the risk factors associated with over-familiarity between the client and the external auditor, it is recommended that the program consider retaining a new Independent Public Auditor.

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

##### **Finding 17: The program's human resources functions are being handled competently.**

KLA's pro bono director is also its human resources (HR) administrator. The program's HR functions appear to be administered well. The HR administrator has seven years of experience in her current job. The program's Human Resources Manual is kept up to date and appropriately addresses the necessary policy areas. It is available to all staff members on the program Intranet. Personnel records are kept behind two locks. The program has experienced few significant personnel issues and those presented were adequately addressed.

The program has a salary scale, with cost of living increases applied. Though salaries are not high at the program,<sup>24</sup> turnover is low. The mutual appreciation between

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<sup>24</sup> The salary for an entry-level attorney is \$35,842.

management and staff, the atmosphere of respect that exists at KLA, the high morale<sup>25</sup> and an outcomes and evaluation process that is separate from salary considerations, appear to be contributing factors that work together to promote staff retention and employee satisfaction.

**Criterion 6. Internal communication.**

The program holds three all-staff meetings a year. Staff, including managers, frequently utilize e-mail, instant messaging, and an Intranet as primary vehicles for communication within the program. The director's and associate director's periodic visits to the branch offices also assist in ensuring the regular flow of information. One staff member at a branch office commented that the executive director makes it a point to talk with each member of the staff during his visits to the office.

**Criterion 7. General resource development and maintenance.**

**Finding 18: The program has been successful in a fundraising strategy that includes coordinating with the Kentucky Access to Justice Foundation in state funding efforts, concentrating on funding that fits within its core mission, and having outcomes that are highly responsive to its funders.**

LSC funding constituted roughly 36% of the program's overall funding during 2007. Legal Services programs in Kentucky also receive a state appropriation, state filing fees money, and IOLTA funding through the Kentucky Bar Foundation. The program owns its Bowling Green office and the three branch offices.

The program has been successful in a fundraising strategy that includes coordinating with the Access to Justice Foundation in state funding efforts, concentrating on funding that fits within its core mission, and being responsive to its funders so that they have increased the funding they provide. For example, United Way considers KLA exemplary in the area of outcomes measurements and has rewarded the program with larger grants and with a recommendation to a private foundation that later became a KLA funder.

In addition to state fundraising efforts in which KLA board members have been involved, the program has been successful in obtaining funding from various other sources, including United Way, the Office On Aging, HUD funding through West Tennessee Legal Services, Title III funding to serve the elderly, National Association of Area Agencies on Aging funding, and a foundation grant to assist victims of domestic violence in Allen County. KLA also receives funding from the Kentucky Bar Foundation for projects that expand pro bono in two of the more underserved counties in western Kentucky.

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<sup>25</sup> Responses to the staff survey conducted by LSC in advance of the visit reflect a program where morale is high. This was later confirmed during on-site interviews with staff, which revealed a program where employees work well together, are respectful of each other and of program leadership, and enjoy being at work.

In addition to its direct funding, the program also avails itself of in-kind resources, such as Kentucky Works volunteers in the Owensboro office.

The executive director has considered ways in which the program's resource development efforts may be enhanced. One idea under consideration is to share a resource developer with the other programs in the state.

**Criterion 8. Coherent and comprehensive delivery structure. [See Overview of Program, on page one, above].**

**Criterion 9. Participation in an integrated legal services delivery system.**

**Finding 19: KLA is generally an active participant in the Kentucky state justice community.**

Kentucky's state justice community consists of the four LSC-funded legal services programs, the Kentucky Access to Justice Foundation (ATJF), the Kentucky Bar Association and the Bar Foundation, and the Kentucky Equal Justice Center (KEJC). The ATJF provides training to legal services staff and serves as the lobbyist for legal services funding. The Kentucky Bar Foundation distributes the IOLTA funding. The KEJC coordinates the statewide task forces and listservs and handles cases not permitted by LSC restrictions.

KLA's executive director is the current board chair of the KEJC. In this capacity, he is in regular contact with the Center's executive director. KLA advocates participate in KEJC-coordinated task force meetings, but not to the degree that they might, because of the distances involved in attending meetings. Staff are, however, active participants on the listservs.

KLA staff regularly attend trainings sponsored by the ATJF. Staff have on occasion served as trainers for ATJF events. The executive director and the board chair have assisted the ATJF in its efforts to secure additional funding for legal services. Obtaining a filing fee add-on was one such effort. The Access to Justice Foundation would like more support and buy-in than it is currently receiving from the state's legal services programs for both the statewide website and a new advocates' support group it has formed.

KLA played a significant role in the coordination of the Kentucky legal services community's collaborative work to retain nursing home patients' Medicaid coverage in the face of state regulatory changes. The program was similarly active in an intensive effort to get senior citizens enrolled in the Medicare Prescription Drug Benefit plans and assisted applicants in choosing among a complex array of plan options. Some co-counseling with advocates in other programs has occurred at KLA, but on a fairly limited basis.

The state legal services community is working towards the establishment of an Access to Justice Commission in Kentucky.

**Recommendation:**

**IV.19.17:** KLA should consider more active participation in contributing to, making use of, and publicizing the statewide website. The program should ensure that model pleadings, briefs and memoranda are sent to the ATJF for possible posting on the website.