

# Legal Services Law Line of Vermont, Inc.

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September 25, 2012

Mary-Christy Fisher, Program Counsel  
3333K Street, NW 3<sup>rd</sup> Floor  
Washington, D.C. 20007-3522

Re: Program Quality Visit on June 18-22, 2012  
Recipient No. 146010

Dear Christy:

I am writing in response to your draft report. The draft is thoughtful and has some insights that will be useful to us.

## Summary of Findings

The report fails to recognize or respond to the crisis we face as a result of two years of reduced funding from the Legal Services Corporation. As I mentioned at our meeting this is the most significant challenge we face right now. LSC funding was 90% of our total funding. We are a small program without a lot of other funding, not because we refuse to look for funding but because other funding for legal services is already committed to other Vermont legal services providers. Consequently, this challenge requires immediate concentrated attention. This is also the most significant challenge that LSC faces.

Generally, I don't feel the draft report pays sufficient attention to the fact that Legal Services Law Line of Vermont is part of a legal services delivery system. For example, in the Summary of Findings on page 4 you discuss Law Line's closed cases, noting that the number of cases Law Line closed is higher than the national median. Similar comparisons are made in other places. I assume you are looking at CSR reports for this data. However, CSR reports are not an accurate source for case data. Because the CSR reports do not reflect all legal service cases closed in Vermont or nationally, this comparison is inapt. Vermont is fortunate enough to have two legal services organizations but CSR data only reflects one of them.

In addition, I do not see much understanding or appreciation of Law Line's mission and approach, which is described in some detail in a report written by John Tull in 2009.

Also in the Summary, on page 5, the draft says that "Law Line lacks a formal culture of discussion and feedback. The program does not have written guidelines for case handling, and conducts no regular status reviews or discussions of strategies of open case files." It is true that we do not have "written guidelines for case handling." The rest of the statement is inaccurate.

Law Line inculcates regular status reviews and discussions of strategies through persistent instruction, habit, and belief. In addition, the task forces provide a continuous forum for strategic discussions both on line and in person.

Finally, the paragraph on page 6 that discusses fundraising and resource development is misleading because it fails to note that both Law Line and Vermont Legal Aid gave up fundraising activities in favor of fundraising done by the Access to Justice Coalition, of which Law Line is a part. This has been an extremely successful project, due in no small part to the continuing and ongoing work of Law Line and Vermont Legal Aid. "Vermont Stories," which you saw when you were here, is essentially a fundraising tool and it has been very effective. In other words, Law Line actively engages in fundraising for the Poverty Law Fellow through the Access to Justice Campaign and for the Vermont Bar Foundation. This was a strategic choice we made several years ago that has proved to be correct.

### **Performance Area One Findings and Recommendations**

Recommendations I.1.1.1 and I.1.1.2 are already part of our joint strategic plan. Consequently the recommendation, if necessary, should make it clear that we should continue to do what we are already doing.

Recommendation I.2.2.1 also recommends things we are already doing except for its reference to "projected outcomes." I don't recall any discussions of establishing outcomes through the priority setting process. Outcome measurement is a complicated, difficult, and frequently misleading activity that we do not intend to embark on without a lot more thought and discussion. Nor, I might add, has LSC been able to enlighten this issue. I am aware that other programs collect outcomes. The ones I am aware of use it primarily for funders, not for strategic planning or priority setting. They also are dangerous because they skew legal services toward the reportable cases which may not be the strategic priority.

Along with others in New England I am following the Greiner studies on outcomes which, so far, are inconclusive and show that strategic limited service (court lawyer of the day clinics) may be as successful for clients (and far more efficient) as full representation.

Recommendation I.2.3.1 is also something we are already doing.

Recommendation I.2.3.2 is clearly relevant and necessary. We agree that as we change the system Law Line will need to think strategically about the work it does and what it wants to accomplish.

Recommendation I.4.4.1 is definitely an aspirational goal for us. We would like to do more client surveys. However, it probably requires resources that at present are not available to us. In addition we already know, as a result of several surveys we have done, that our clients value are service and feel that they are empowered by them.

Recommendation I.4.4.2 is unclear to me. How would stored data help us to determine whether indirect services are achieving desired results and/or increasing access to services?

## **Performance Area Two Findings and Recommendations**

A finding on page 12 says that the referral process is inefficient and confusing for clients. I don't agree with this assessment and I don't see any factual basis for it. The draft also says that "[a]pplicants who are not timely contacted by Law Line after a referral is made, generally telephone VLA to follow up: for some, this is because they initiated contact by calling VLA's toll-free number while, for others, it is due to the difficulties they encounter getting through on Law Line's main number." I was not aware of serious problems getting through on Law Line's main number and I don't think people call VLA "generally" after they are referred to Law Line. They are given Law Line's number when they are referred and most people call us directly. However, our resources, particularly support staff resources, are limited. We have to be strategic in handling these calls. If some people do not hear back from us as quickly as they want it is more likely a strategic decision rather than an inefficiency. We are not a hotline. Our goal is not to provide an immediate answer to everyone who calls. Many people simply do not understand the differences between the two organizations but that sort of confusion is expected and understandable. I think the system compensates well for it.

A finding on page 12 discusses "a lack of prompt communication between the programs" which it says is "problematic." I think that some delays are inevitable in any legal services program because case acceptance decisions are never, nor should they be, instantaneous. Resources are also a factor. If someone is on vacation it can result in a delay. It would seem to me this is inevitable and happens in every legal services organization. And sometimes this means that when we call someone we cannot reach them. Every legal services program has this problem. It is something that was discussed at length in the joint strategic planning process. As we implement this plan we are taking steps to improve communication.

Recommendation II.1.6.2 says that Law Line should provide a "formal response" when it declines a referral from Vermont Legal Aid. This is not required ethically nor would it accomplish anything. It would be an inefficient, unnecessary waste of time.

At the top of page 15 the report says that VLA is working with the Vermont Access To Justice Coalition to standardize and improve the work of interpreters. This is an error. She is working with the Vermont Courts on this project.

Recommendation II.2.8.1 says that Law Line should encourage its advocacy staff to engage in community outreach activities. I believe we are already doing this.

## **Performance Area Three Findings and Recommendations**

Finding 11 says that Law Line lacks basic work systems necessary to ensure maximum effectiveness. I disagree strenuously with this. Some of my reasons are referred to above. This recommendation confuses a fussy formality with actual daily practices and would add an unnecessary, inefficient set of "formal procedures." There is no basis for asserting this "need" in any of the discussions about cases, nor is it raised in earlier reports such as the Tull report which praised our outstanding advocacy.

Recommendation III.1.11.1 says that Law Line should “develop case handling procedures so there is a consistency to the level of advice or other assistance clients receive.” This appears to miss a very important aspect of how we see our mission and how we do our work. We do not apply a one size fits all approach except in some areas such as bankruptcy inquiries and some family cases where routine procedures are already in place. Other cases go to advocates, including an experienced and knowledgeable paralegal and several well trained, well supported attorneys. The advocacy staff initially provides information and advice. Other services may follow, including ghost writing pleadings, interpreting and analyzing court decisions, coaching, negotiation with third parties, or representation. In every case we try to empower the client to represent herself. Decisions about what level of service to provide are strategic decisions made on the basis of the needs of the client, the type of case, the impact, and the work load of the advocate. In other words we continually reevaluate level of service decisions as the case proceeds. This was described and praised in the Tull report and it has affected decisions about how Vermont Legal Aid provides service. “Case handling procedures,” if I understand what they are, would interfere with, not support, our work.

Recommendation III.1.12.1 recommends that Law Line formalize its training program. I am not sure what this means although it sounds like more unnecessary and unhelpful written procedures.

Finding 13 discusses the “routine” legal work that Law Line does.

First of all, staff are unanimous that helping people represent themselves is anything but routine in the sense of boring or predictable. Advocates find this work interesting and rewarding and take great pride when a client is successful.

It is true that some of our work is repetitive and we have made changes to increase efficiency. As we continue to evaluate this we may shift away from some work in order to increase efficiency and effectiveness. However, this is a complex choice. There is a tension between the importance of doing the routine work, so that we can get a larger picture of what our clients are facing and spot trends, and the implicit value of the LSC team that seems to think that routine work is not important. Furthermore, in a legal services system we strongly believe that the attorneys benefit from routine work by being more closely in touch with the client community and their issues. Too much focus on the complex case removes advocates from the everyday world of the client community and deprives them of the knowledge they need to be strategic and effective in combating poverty.

Our interest in taking on more extended representation while maintaining a high volume practice did not begin with the strategic planning process. It began with the consumer defense project we created more than four years ago. This project provides high volume advice and information and selects cases for more extended service, including full representation.

Recommendation III.1.13.1 recommends taking more full representation cases, which would “benefit the individual clients.” This is a more complicated decision than this recommendation seems to understand. We are prepared to take full representation cases when it makes strategic sense to do so. But these are priorities decisions that are made by staff. When taking a full

representation case means not providing pro se assistance in 8-10 cases because of resource limits, staff question whether this is the right decision as a matter of course. Staff does not think that this decision is for LSC to make.

Recommendation III.1.13.2 similarly seems to recommend doing less pro se assistance and more extended service without considering the effect of this choice on other clients and on the overall mission. Again, this should be the program's decision.

Recommendation III.1.13.3 recommends another manual and more policies without explaining the need it would address. What is the concern about reviewing "written materials prepared by pro se clients?" Law Line advocates make strategic decisions about when to send a client a form and when to prepare a form. This is consistent with our mission and with our ethical responsibilities. Since pro se clients submit forms without even consulting with us, implementation of this recommendation seems impossible as well as unreasonable.

Finding 15 compares Law Line's CSR reports with the national median. First of all, CSR reports do not reflect legal services work, as discussed above. It is misleading to use them this way without recognizing the work of the other state-wide legal services organization we work and cooperate with. Second and most importantly, the national median does not represent anything more than the way most legal services programs do things. Law Line has always been an innovative program that looks at outcomes and measures its performance in terms of what is achieved for clients. The national median does not set a standard for others. Using it as a comparison measure stifles strategic innovation.

Recommendation III.2.16.1 is about immediately notifying the bar association about referrals. We already do that.

#### **Performance Area Four Findings and Recommendations**

Recommendation IV.1.19.4 urges the board to prepare "more concretely" for future leadership transition. It is not clear what is meant by this or what the need is.

Recommendation IV.7.26.1 urges Law Line to create a development plan to find additional funding streams. Funding and development are a continuous and ongoing issue. Vermont legal services as a whole are well funded by a large group of diverse resources. Diverting funding to Law Line will take resources from other Vermont legal services. It is unclear how or why a development plan would help this continuing, ongoing effort.

Thank you.

Sincerely,

Thomas Garrett  
Executive Director