



Best Practice **NOTES**

*On Delivery of
Legal Assistance to Older Persons*

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Preface

After a long hiatus, The Center for Social Gerontology (TCSG) is very pleased to begin again to publish our periodic newsletter. This edition is devoted to the important and challenging issue of effectively targeting Older Americans Act services, particularly legal services, to those older persons in greatest social or economic need, and doing so without means testing. It also includes an updated chart of information we previously published in April 2001 – the minimum percentages of IIIB funds that states require to be expended on legal services.

BPN topics planned for the near future include:

1. Reporting on legal services, including reporting outcomes/indicators of impact;
2. An in-depth discussion of the critical role/responsibilities of State Legal Services/Assistance Developers; and
3. Conducting Assessments of the Capacity of Statewide Legal Services Delivery Systems to serve effectively older persons in greatest need of assistance.

Editor's Note

This edition of *Best Practice Notes (BPN)* revises and updates *BPN* Vol. 12, Nos. 1 & 2, originally published in November 2003 under the title: *Hitting your Mark: Using Targeting Techniques to Reach Those Most in Need*. That newsletter examined the critical and challenging issue of targeting limited Older Americans Act (OAA) legal resources to those elders most in need of assistance, those who are least able to advocate on their own behalf. In this revised edition we update that article to include a discussion of relevant provisions of the 2006 reauthorization of the Older Americans Act of 1965 (Public Law 109-365). Specifically, we examine 2006 language that increases the focus on targeting services to older individuals with limited English proficiency; encourages voluntary contributions from older clients, so long as the method of solicitation is noncoercive; and clarifies that all collected contributions shall be used to expand the particular service for which they were given, and shall supplement, not supplant, funds for legal services provided under the Act. We examine how each of these 2006 provisions fits with other requirements of the Act, and we revisit the original article's suggestions for practical steps that States, area agencies and legal assistance providers can take to achieve the targeting goals of the Act.

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Targeting Older Americans Act Services Without Means Testing: Meeting the Challenge

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A. Introduction

The Older Americans Act (hereafter OAA or the Act) was conceived in 1965 to address the needs of *all* older persons, and its purpose was broadly directed at giving them an opportunity for full participation in the benefits of society.

Since 1965, however, Congress has increasingly directed that OAA resources be targeted to those elders with greatest social or economic need. For legal assistance, this targeting directive is even greater than for other OAA services. This is because, of all the services defined in the Act, *only* “legal assistance” includes *as part of the definition itself*, an explicit directive that legal services are to go to “*older individuals with economic or social needs.*”

While the Act is clear regarding who should be given priority for services, the legislative history, the regulations, and since the 2000 Amendments the Act itself, are equally clear that means-testing -- the use of income and resources to determine who is eligible to receive services -- is prohibited. This mandate to target without means testing creates a dilemma and raises the question: how do you effectively target limited OAA resources to those in greatest economic or social need, if you can't say “no” to anyone seeking services on the basis of her/his income/assets? TCSG has been asked this question many times, particularly with respect to legal services. Thus, we are providing this BPN to suggest a number of approaches to dealing with the dilemma.

The article begins by examining the evolution of ever-increasing targeting requirements in the Act, the regulations, and legislative history that *apply to the full range of OAA services*. It then looks at targeting requirements *specific to legal services* because, as noted, the *targeting directive is even greater for legal assistance* than for other OAA services. Next, it explores the prohibition against means testing, and traces the purpose of the prohibition through the legislative history, the regulations, and now the Act itself.

It concludes with suggestions of ways to achieve the goal of targeting limited legal resources to the most needy, without using means tests. For, while the means testing prohibition poses challenges for legal providers, particularly those housed in Legal Services Corporation (LSC) agencies, means testing alone cannot assure that the targeted populations are reached. In other words, even if a provider *could* use a means test to determine whether to provide services to a particular older client, it is not necessarily an effective way to ensure that the targeted populations are reached and served. Instead, a more comprehensive approach is warranted.***

B. Evolution of General Targeting Requirements in the OAA

Over the years, Congressional views regarding the federal government's responsibility toward older Americans have evolved, as the situation of the nation's older population has evolved. As noted, as originally conceived in

*** *Important Note:* The Older Americans Act is in the process of being reauthorized. There are no indications that the targeting requirements will be less strong, or that the means testing prohibition will be deleted. The bill that has been introduced in this 113th Congress (S 1028) by Senator Bernie Sanders, Chair of the Subcommittee on Primary Health and Aging (with 16 co-sponsors) of Senate Committee on Health, Education, Labor and Pensions (HELP) includes several changes worth noting. (1) It broadens the definition of “greatest social need” to include several groups not previously included, e.g. individuals isolated due to status as an LGBT individual; status as a veteran; status as a Holocaust survivor; etc. (2) The term “greatest economic need” would be changed from meaning “the need resulting from an income level at or below the poverty line” to the “need resulting from an income level that is not more than 200 percent of the poverty line.”

1965 when very few special programs and services for older persons existed and a very large percentage of the older population lived below the poverty line, the purpose of the OAA was to test ways to address needs of *all* older persons, and its objectives were broadly directed at giving them an opportunity for full participation in the benefits of society. Since 1965, as the scarcity of federal dollars became more apparent and the overall economic and social status of the older population improved, Congress increasingly directed that OAA resources be targeted to those elders with greatest social or economic need. And through successive reauthorizations, Congress has continued to refine and expand the requirements to target limited OAA services to the nation's most needy elders. This has included more fully identifying an increasing number of specific groups to receive particular attention in targeting efforts, e.g., low-income minority individuals, and those with limited English proficiency.

B.1. 1973
Amendments

Congress first made broad mention of targeting in the 1973 Amendments, which created the network of state and area agencies and the comprehensive service delivery system for older persons. Title I, Declaration of Objectives, of the 1973 Amendments stated:

SEC. 101. The Congress finds that millions of older citizens . . . are suffering unnecessary harm from the lack of adequate services. It is therefore the purpose of this Act, . . . , to --

(1) make available comprehensive programs which include a full range of health, education and social services to our older citizens who need them,

(2) give full and special consideration to older citizens with special needs . . . and pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need.
(emphasis added)³

B.2. 1978
Amendments

In 1978, Congress first included specific targeting directives for OAA services. The 1978 Amendments contained, in a number of places, requirements that State and area agencies give preference – in conducting outreach, in providing services, etc. -- to older persons with greatest economic and social needs. Area agencies were required, for example, to “*assure the use of outreach efforts that will identify individuals eligible for assistance. . . with special emphasis on rural elderly, and inform such individuals of the availability of such assistance.*”⁴

B.3. 1984
Amendments

The 1984 Amendments further strengthened targeting requirements by mandating that state and area agencies pay “particular attention” to low-income, minority individuals when giving preference to those in greatest need.⁵ The Amendments of 1984 also included, for the first time, definitions of greatest economic and social need and required that State plans include the application of those definitions.

B.4. 1987
Amendments

In the 1987 Amendments, Congress further strengthened requirements to target low-income minority individuals, and it changed slightly the definitions of greatest social and economic need. State agencies, when dividing the state into planning and service areas, and area agencies, when developing

service plans, were required to pay “*particular attention*” to low-income minority individuals.⁶ Similarly, since 1987, State and area agency plans must assure that outreach efforts will place “*special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals),...*”⁷ in their outreach efforts.

B.5. 1992
Amendments

In 1992, targeting provisions, many of which were originally added to the Act in 1987, were again strengthened, particularly for low-income minority individuals. For example, they required the State agency to: (1) set specific goals for each planning and service area for providing services to older low-income minority individuals; (2) provide assurance that it will undertake specific program development, advocacy, and outreach efforts focused on the needs of such minority individuals; and (3) provide a description of its efforts in this regard.⁸ Most significant about the 1992 Amendments – though beyond the scope of this article -- was the addition of a whole new title (Title VII) which strengthened advocacy programs and activities, and placed specific responsibilities on the state agency to assure vulnerable elder rights protection.⁹

B.6. 2000
Amendments

The 2000 Amendments placed added focus on “older individuals residing in rural areas” to the various targeting provisions throughout the Act. For example, they mandate that state and area plans must assure adequate outreach to rural elders.¹⁰

B.7. 2006
Amendments

In the most recent 2006 Amendments, Congress added language throughout the Act, highlighting particularly “*older individuals with limited English proficiency.*”¹¹ By increasing focus on older individuals with limited English proficiency, Congress recognized the expanding numbers of non-native English speakers in the older population.

According to the U.S.Census, 4.4 million people (12.6 percent) of individuals age 65 or older spoke a language other than English at home. Less than half of these individuals (47%) spoke English “very well.”

. . . .

*The Committee recognizes that individuals with limited English proficiency (LEP) may have language needs, and that language often is a significant barrier to older individuals seeking information or access to services within a community.*¹²

B.8. Current
Language

Given this ever increasing focus on targeting, the current Act specifies a fairly long list of target groups, which is repeated, with slight variations, numerous times throughout the Act. As just two examples, with regard to outreach in both State and area plans, it requires that the plans:

- (B) provide assurances that the area agency on aging will use outreach efforts that will-*
 - (i) identify individuals eligible for assistance under this chapter, with special emphasis on-*
 - (I) older individuals residing in rural areas;*
 - (II) older individuals with greatest economic need (with*

- particular attention to low-income minority individuals and older individuals residing in rural areas);*
- (III) older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);*
- (IV) older individuals with severe disabilities;*
- (V) older individuals with limited English proficiency;*
- (VI) older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and*
- (VII) older individuals at risk for institutional placement; and*
- (ii) inform the older individuals referred to in subclauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance. . .¹³*

The section of the Act governing what states must do organizationally in order to be eligible to receive Title III funds to carry out the purposes of the Act, requires that each State must provide an assurance that preference will be given in the delivery of services to those:

older individuals with greatest economic need and older individuals with greatest social need (with particular attention to low-income older individuals including low-income minority individuals, older individuals with limited English proficiency and older individuals residing in rural areas) and include proposed methods of carrying out the preference in the State plan¹⁴ (emphasis added)

As defined in the current version of the Act, the terms greatest economic need and greatest social need mean:¹⁵

- (23) The term "greatest economic need" means the need resulting from an income level at or below the poverty line.*
- (24) The term "greatest social need" means the need caused by noneconomic factors, which include-*
 - (A) physical and mental disabilities;*
 - (B) language barriers; and*
 - (C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that-*
 - (i) restricts the ability of an individual to perform normal daily tasks; or*
 - (ii) threatens the capacity of the individual to live independently.*

. . . .

- (43) The term "poverty line" means the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 9902(2) of this title.¹⁶*

Targeting requirements are imposed on all levels of the aging network, from the Assistant Secretary of Aging, Administration on Aging (now part of the

Administration for Community Living)¹⁷ to each local provider. For example, at the federal level, targeting requirements are contained in the sections of the Act that address the Administration on Aging's (1) role in providing training and technical assistance to states, area agencies and providers, (2) role in evaluation of programs and services under the Act, (3) responsibility for data collection and reporting, and (4) duty to monitor and ensure appropriate use of funds.¹⁸

In addition to specifying targeted categories of individuals to receive priority for limited OAA services, recent reauthorizations of the Act have called for *coordination* with others in order to more effectively meet the needs of particular groups. For example, in their area plans, area agencies must provide assurances that the AAA –

*... will coordinate planning, identification, assessment of needs, and provision of services for older individuals with disabilities, with particular attention to individuals with severe disabilities, and individuals at risk for institutional placement, with agencies that develop or provide services for individuals with disabilities.*¹⁹

C. Greater Targeting Requirements Specific to Legal Services

As noted, for legal assistance, the targeting directive is even greater than for other OAA services. This is because, of all the services defined in the Act, *only* “legal assistance” includes *as part of the definition itself*, an explicit directive that legal services are to go to “*older individuals with economic or social needs.*”²⁰ However, despite this specific directive in the Act, many legal providers express concern about whether they need to make services available to *all* older persons, and some AAAs believe they must do so. This perception may stem from a high demand for services by older people who do not fall into the targeted groups. Also, these potential clients can be quite vocal with area agencies, which compounds the difficulty. Clearly, given limited funding and high demand, it is not possible, for legal providers to serve all elders, and the law does not state that they are to do so. Rather, it specifically defines legal services as follows:

(33) *The term “legal assistance”—*
*(A) means legal advice and representation provided by an attorney to older individuals with economic or social needs; ... (emphasis added)*²¹

The Act further addresses this issue by stating explicitly that “*no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need*”²²

C.1. Explicit Directives re Issue Areas to Receive Priority

As further guidance for targeting of legal services, since the 1992 Amendments, a listing of legal problems of particular significance to targeted individuals has been included. The Act directs state agencies to assure, in the State Plan, that in the provision of legal services, priority will be given to the listed legal problem areas. It states --

... area agencies on aging will give priority to legal assistance related to

*income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.*²³

The 1991 Senate committee report explains that the list is included:

*{in} response to concerns that many area agencies on aging have not established legal assistance programs which include sufficient outreach, targeting and community education components, It is the Committee's expectation that these provisions will ensure that services are targeted to those in greatest social and economic need.*²⁴ (emphasis added)

C.2. Explicit Directives re Role of Legal Services in Guardianship Cases

It is important to note that the above list of priority issues singles out a particular role for OAA legal services in guardianship cases, i.e. "defense of guardianship." This means defending an older person against the loss of her/his autonomy through an inappropriate/unnecessary guardianship or terminating a guardianship over an older person. In only limited situations, does it allow representation of an older person who is petitioning for guardianship. The OAA is clear that legal assistance providers may only represent a petitioner for guardianship if that person is her/himself older (60+) and other representation is not available. The Act states:

The Assistant Secretary shall carry out a program for making grants to States under State plans . . . for

*.....
(6) services designed to provide older individuals legal assistance . . . including*

*.....
(B) representation --*

(i) of individuals who are wards (or are allegedly incapacitated); and

*(ii) in guardianship proceedings of older individuals who seek to become guardians, if other adequate representation is unavailable in the proceedings . . .*²⁵ (emphasis added)

D. Targeting vs. Means Testing

At the same time that targeting requirements have been strengthened for all services with each reauthorization of the Act, Congress has made it equally clear that targeting efforts must *not* involve "means testing" -- that is, the use of income and resources to determine who shall be eligible to receive services under Title III is prohibited. Historically, the prohibition against means tests was addressed in legislative history and in the regulations which specify that providers of Title III services may not require older persons to disclose information about income or resources as a condition for receiving services.

During his opening statement at a Joint Hearing on regulations to implement the 1978 amendments, Senator Thomas Eagleton stated with respect to all Title III services:

Another area of great concern has been the issue of means and income tests. The 1978 Amendments do require that preference be

given to those elderly with the greatest economic or social need. However, Congress in no way intended to impose income as a determinant of eligibility under the Act. Congressional intent has been clear since 1965 that these programs are not stigmatized by the “welfare” label.

However, in view of the fact that some 7 million older Americans have incomes which fall below the poverty threshold or within the “near poor” category, Congress did intend that preference in service delivery be targeted to low-income elderly.²⁶

The most current regulations²⁷ prohibit the use of a “means test” for any services provided under the Act.²⁸ “Means test,” as defined in the regulations, is *“the use of an older person’s income or resources to deny or limit that person’s receipt of services. . . .”²⁹*

D.1. Means Testing Prohibitions Specific to Legal Services

With regard to legal assistance providers in particular, the regulations state:

(d) A legal assistance provider may not require an older person to disclose information about income or resources as a condition for providing legal assistance under this part.³⁰

The legislative history repeatedly indicates that the means testing prohibition specific to legal services in the regulations accurately reflects congressional intent. For example, in connection with legal services under the 1978 Amendments, Congress stated that:

The conferees wish to emphasize that in carrying out its responsibility to concentrate on the elderly with the greatest need, no project shall, in any way, give a means test or asset test to any applicant; no applicant shall be questioned about his or her means or assets;³¹

As noted, the prohibition against means testing, can be problematic for providers who are housed in agencies that are also grantees of LSC, because LSC grantees are *required* to means test. That is, they must condition the receipt of LSC-funded services on a client’s meeting LSC income and asset eligibility limits. For many years, LSC and the Administration on Aging (AoA) had an interagency agreement that helped clarify mechanisms for meeting requirements of both LSC and the OAA. That agreement is no longer in force. Thus, providers who receive funds from both LSC and AoA must be particularly careful in order to assure their compliance with the requirements of both funding sources.

D.2. Voluntary Contributions vs. Cost Sharing

Beginning with the 2000 Amendments, after much debate, a means testing prohibition was added to the Act itself, as part of a new cost sharing provision. Cost sharing is a form of means testing that uses a sliding fee scale linked to the older person’s income. (Space does not permit exploring the different sides of the debate around cost-sharing.)

The important point, however, for purposes of this discussion is that since the 2000 Amendments, the Act, while allowing for some cost sharing, *specifically prohibits it for certain essential services*, such as information and assistance,

case management, benefits counseling, congregate and home delivered meals, *legal assistance*, ombudsman, and other elder rights programs.³² But, while prohibiting *cost sharing* for the above types of services, the Act does *allow for voluntary contributions*, and it is in the discussion of voluntary contributions that the Act itself now addresses means testing. Voluntary contributions are allowed *provided there is no coercion or means test used*.³³

The Act currently states that:

*Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under this chapter if the method of solicitation is noncoercive. Such contributions shall be encouraged for individuals whose self-declared income is at or above 185% of the poverty line, at contribution levels based on the actual cost of services.*³⁴ (emphasis added)

The last sentence of this provision, encouraging contributions from individuals with self-declared incomes at or above 185% of the poverty line, was added in the 2006 Amendments.³⁵ TCSG is concerned that this provision may be misinterpreted. If AAAs and providers look only to the last sentence of this provision and overlook the first part, requiring that solicitation of contributions be noncoercive, they may begin to exert greater pressure on older clients to contribute. This pressure, in turn, may dissuade older persons from seeking legal services. Legislative history is clear that this provision in the 2006 amendments “*maintains current law that any contribution is voluntary and all solicitations shall be non-coercive.*”³⁶ As the Act explicitly states,

*[t]he area agency on aging and service providers shall not means test for any service for which contributions are accepted or deny services to any individual who does not contribute to the cost of the services.*³⁷

D.3. Voluntary Contributions Must Be Used to Expand Legal Services

The 2006 Amendments also clarified that legal and other providers collecting voluntary contributions should maintain and use those contributions to augment their particular services, rather than having them go to the AAA to be used for other types of services or for other purposes. The Act now explicitly states:

The area agency on aging shall ensure that each service provider will –

.....

*(E) use all collected contributions to expand the service for which the contributions were given and to supplement (not supplant) funds received under this chapter.*³⁸ (emphasis added)

This is further reinforced in the report from the House of Representatives’ Committee on Education and the Workforce, considering the 2006 reauthorization, which states that “*Title III allocations to any service provider should not be reduced based on the amount of voluntary contributions received.*”³⁹

E. Difference Between Means Testing & Screening for Benefits

It is important to note that, while prohibiting means testing the Act and Regulations *do allow* a legal assistance provider to ask questions about income and assets as part of a benefits eligibility screening, so long as the provision of legal assistance is not conditioned on the results of this inquiry. The relevant language is found in the OAA regulations governing legal assistance, the relevant part of which reads as follows:

*(e) A legal assistance provider may ask about the person's financial circumstances as part of the process of providing legal advice, counseling and representation, or for the purpose of identifying additional resources and benefits for which an older person may be eligible.*⁴⁰

So, it is permissible for a legal provider to inquire about a client's income and assets for the purpose of screening for benefits. Providers may find it helpful to conduct what is widely known as a "public benefits check up" with clients. This involves using income and assets information to identify whether the client is eligible for such things as food stamps (now SNAP), Supplemental Security Income (SSI), and public housing. Because of provider discomfort with asking a potential client for financial information (after all, in many cases legal providers counsel their clients to avoid giving out this sensitive information), some providers choose to ask this as an "over/under" question. Using this method, a provider may ask whether a client's monthly income falls below a certain dollar amount. If the client answers in the affirmative, the provider may then inquire as to the amount, so long as the client (and provider) understand(s) that the purpose of the inquiry is limited to establishing eligibility for other benefits and services. In other words, it is acceptable to ask clients for this information, so long as the information is used to *extend*, rather than to deny, services.

In fact, as of the 2006 Amendments, the Act itself calls for outreach and benefits enrollment assistance to older individuals with greatest economic need. Specifically it requires that the Administration on Aging:

. . . encourage, and provide technical assistance to, States, area agencies on aging and service providers to carry out outreach and benefits enrollment assistance to inform and enroll older individuals with greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs providing benefits for which the individuals are eligible, including –

- (i) supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. §1381 et seq.), or assistance under a State plan program under such title;*
- (ii) medical assistance under title XIX of such Act (42 U.S.C. §1396 et seq.;*
- (iii) benefits under the Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); or*
- (iv) benefits under any other applicable program;⁴¹*
(emphasis added)

Benefits screening can be an easy and low-cost way to increase income and resources available to lower-income clients. Studies have shown that many

older clients are eligible for benefits that they do not receive. The Medicare Savings Program (MSP) for low income beneficiaries provides an important example. State-run MSPs can provide help to beneficiaries with low income and assets, by paying for monthly premiums, deductibles and co-pay amounts for Medicare Parts A and B. Programs included under the Medicare Savings Program are: Qualified Medicare Beneficiary (QMB) Program; Specified Low-Income Medicare Beneficiary (SLMB) Program; and Qualified Individual (QI) Program.⁴² Historically these MSP programs have been, and they remain, under-enrolled. Many clients are not even aware of the program's existence and/or do not know how to apply for benefits.

Web sites such as the National Council on Aging's (NCOA) site, located at <http://www.benefitscheckup.org>, provide an easy way to identify benefits for which clients may be eligible. Under the NCOA program, a provider (or client) enters information into the benefits check-up web site and receives a computer-generated list of all local, state and federal programs and services for which the client may be eligible. Providers with limited access to the Internet, or who do not wish to use the NCOA site, should create their own screening protocol, keeping income and asset eligibility information handy. A short conversation about benefits eligibility can result in a substantial benefit to a client.⁴³

F. Approaches to Successful Targeting of Legal Services without Means Testing

As noted, the tension created by the strong statutory requirement to target those in greatest need juxtaposed with an equally strong prohibition against means testing can lead to confusion and frustration by legal assistance providers and State and area agency staff. Approaches to resolving this dilemma are best accomplished when legal providers work with the State legal services developer, area agencies and others to –

1. clearly identify specific groups of elders who are the most needy, most vulnerable and least able to advocate on their own behalf, and recognize that those most in need are often the hardest to reach and they may not recognize that their life problems are legal problems;
2. identify the most critical life problems confronting target populations and translate those into priority legal issues that the IIIB program will handle;
3. Always be guided by the overriding principles that legal services are provided with cultural sensitivity and that communication with clients is effective;
4. develop strategic outreach/publicity/community education to the identified target populations recognizing in materials and presentations that things such as language barriers or literacy issues might exist;
5. coordinate with LSC and other legal and social service providers serving targeted groups, including looking to them as secondary referral sources; and
6. make the legal services accessible and user friendly.

Each of these is discussed further below.

F.1. Clearly Identify Target Populations

The term “targeting” is used so frequently that it has become little more than a buzzword with limited meaning. Essentially, targeting means not operating on a first-come, first served basis. This is not easily achieved when it means turning a specific older person away. However, when programs respond to every request for service that comes in the door, OAA resources can quickly be depleted.

To assist programs with the difficult task of deciding which clients are in greatest need of legal services, it is necessary for providers, LSDs, and AAAs to engage in a deliberate and conscious process of developing specific guidelines for targeting. An extremely important first step in this process is to look at the types of clients actually receiving services. That information should then be compared with the target groups set forth in the Act and any other especially needy groups specific to the service area, to see the extent to which the two reflect each other. All too often, there is insufficient overlap. Armed with this information and working together, legal providers, AAAs and state legal services developers must then carefully identify the most needy elders in their particular locality (e.g. low-income minorities, non-English/limited English speaking, those who are isolated for reasons of race, ethnicity and/or geography and/or have low literacy skills.) Once the target populations have been clearly identified, along with important groups among them who are not being adequately reached, this information must be used, as discussed below, to establish deliberate operational procedures to reach and serve them.

It is important to remember, throughout this process, that many of the most needy are not likely to request services without some special outreach and education. They –

- 1) may not recognize life problems as legal problems (e.g. a cut in an elder’s SSI may be seen as a problem with the government about which nothing can be done)
- 2) cannot or will not come to a legal services office, and are often the hardest to reach; and
- 3) are often the least able to advocate on their own behalf.

The reason it is important that legal providers work on this process in collaboration with the state agency/legal developer and area agencies is because they can provide valuable demographic information on target groups in the state/service area. Because the OAA’s targeting requirements extend to the development of state and area plans, these plans typically include substantial information about numbers/percentages of various target groups and where they are located in the state/area. In addition, as State and area agencies continue to develop their information and assistance networks and their Aging and Disability Resource Centers (ADRCs)⁴⁴ more data has become available that could be useful in tracking trends in requests for legal assistance and identifying emerging legal issues.

F.2. Establish Legal Issue/Case Priorities

Perhaps the most important way to achieve targeting without means testing, is to clearly establish priority issue areas in which services can be provided. This means thinking again about the identified target groups, exploring the

most critical life problems that confront them, and determining how legal assistance services could have significant impact on their lives and well-being. Simply stated, priority setting is the identification of specific types of life problems that are most critical to target groups in meeting basic needs, e.g. income, shelter, nutrition, health care. Legal providers can translate these life problems into the types of *legal issues they will/will not handle* in order to maximize the impact that their limited resources can have on the target groups.

TCSG has found that one way to assist decisionmaking in priority setting is to think in terms of legal *needs* vs. legal *wants*, with legal *needs* being those that impact the ability of the client to meet the basic human needs noted above. Given limited resources and the mandate to target, legal providers should clearly establish these most critical legal *needs* as priorities. Legal *wants* (e.g. simple wills and health care powers of attorney) are issues that aren't essential to meeting basic needs and thus should not be established as priorities for limited OAA legal resources. And while they may be perceived as a critical service by older persons, they are significantly less critical than addressing essential needs of target populations. They are also the types of issues that providers, working with the state developer, are likely to be able to find alternative methods for delivering the services, e.g. organizing pro bono or reduced fee panels and/or wills clinics, working with law school clinics to develop a wills/health care advance directive program for older persons, etc.⁴⁵

A basic guide for the priority setting process is provided in the eleven (11) broad case priorities set forth in the OAA -- income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.⁴⁶ Under these broad priority areas, specific needs of target groups in the state/local service area should be delineated. Likely priority issues will include such areas as Food Stamps (now SNAP), Social Security, Supplemental Security Income (SSI), landlord/tenant, public housing, Medicare, Medicaid, etc.

Prior to establishing case priorities, and periodically thereafter, providers along with area agencies and the State developer may want to consider a more formal approach to assessing legal needs of targeted populations. While any elaboration on the topic of conducting "needs assessments" is beyond the scope of this article, detailed guidance can be found in two articles in TCSG's *Best Practice Notes on Delivery of Legal Assistance to Older Persons*, Vol. 14, Nos. 1 & 2, March 2005, "Assessing Legal Needs of Older Persons: A General Primer" and "A Guide to Conducting a Legal Needs Survey." The articles are available at <http://www.tcsg.org/bpnotes/march05/contentsmar05.htm>.

One important note, however, is that any needs assessment should be carefully planned so as not to exclude any particular group of elders. For example, by drawing a needs assessment sample from voter registration roles or from a list of licensed drivers, older persons who aren't registered to vote or who do not have a driver's license will be missed, and many of these are likely to be part of important target group(s).

If a legal program is not housed in an LSC office, the program should also work with the local LSC program to assure that the selected priorities for Title III services complement the work of the local LSC program.

Priorities should be revisited on a regular basis, as client needs change, and as laws, regulations and policies affecting targeted populations change. Further, while priorities should guide intake decisions, they should not be used as rigid rules to turn clients away. A program should retain flexibility to accept compelling cases for the target client population, even if a particular case falls outside of the program's stated priorities. The same is true of emergencies.

In effect, a finely honed list of priorities that reflect the most critical needs of targeted populations can provide a program with a fair and consistent way of saying "no" without means testing. Further by using case priorities to drive outreach and publicity such that the types of issues the program does/does not handle are clear and consistent, over time, older persons with non-priority issues may seek help elsewhere.

F.2.a. Priority re Role of IIIB Providers in Guardianship Cases

When setting priorities, it is important to remember that, as discussed in C.2. above, the Act provides specific guidance on the role of IIIB legal providers in guardianship cases. The role is to defend an older person against guardianship or to terminate a guardianship, and in only limited circumstances, to represent an older person (60+) petitioning for guardianship.⁴⁷ It is equally important to remember that the *client is always the older person*. IIIB resources should never be used to represent a young family member or friend wishing to gain guardianship over an older person because the younger family member/friend believes that guardianship is in the best interests of the older person.

F.2.b. Legal Issue Priorities vs. Client Type Priorities

In the past, TCSG has received inquiries about the appropriateness of area agencies -- in response to the Act's increased emphasis on targeting -- requiring their legal providers to establish *priorities based on client type, rather than case/legal issue type*. For example, the area agency may require its provider to serve only protective services clients or to give protective services clients first preference. These two situations are somewhat different and are discussed separately.

The requirement that a provider serve only a discrete group, such as protective services clients or older persons receiving home and community based services, will not achieve effective targeting. While such a group may fit within one or more of the specified target groups, it will not be representative of others. And groups such as protective services clients and those receiving home and community based services may not be the most needy as they are already a part of the aging service system and receiving some services. Additionally, by serving only a discrete group, the legal provider cannot adequately focus on many of the priority issues specified in the Act and discussed above. Any one group is unlikely to need the full panoply of legal services the Act prioritizes. Thus such restrictions seriously interfere with a provider's ability to meet the broad targeting requirements of the Act.

The requirement that a legal provider give first preference to a discrete group of clients is somewhat less troublesome, but still presents significant problems. As above, there is a question of whether a group is representative of the various target populations. Further, there is a question whether a more serious problem of a client who does not fall within the “first preference” category should be rejected so that the program may handle a less serious problem of someone else. To illustrate this point, consider a situation where an area agency requires protective service clients to receive first preference. Under this system a protective services client might be assisted with a will or durable power of attorney, while another person’s income maintenance case is rejected. While both cases may be important in the client’s view, limits on Title III resources require that priority setting focus on issues that *truly reflect the most critical legal needs* of the target groups. Giving preference to an APS client wanting a will over someone with a critical need for assistance in securing/ maintaining essential income does not achieve this.

*F.2.c. Develop
Substantive Expertise*

As providers focus on the priority issues that have particular impact on targeted clients, they should naturally develop expertise in those substantive areas to the maximum extent possible. As new problem areas arise for clients, and new developments in law and regulation arise that affect the target population, programs should be able to respond. For example, deregulation of public services such as gas or power may result in unexpectedly high utility bills, which can be a major problem for clients on fixed incomes. In addition, the program should be prepared to adjust priorities and focus on emergency cases arising in the event of a major disaster.⁴⁸

*F.3. Overriding
Principles: Cultural
Sensitivity and
Effective
Communication*

Once developed, the identified target groups and case priorities should drive and help shape all efforts of legal services programs to reach those groups and address the case priorities. It is imperative that all such efforts be guided by the overriding principles that legal services are provided with cultural sensitivity, and that communication with clients is effective

*F.3.a. Cultural
Sensitivity*

More and more, Legal Services, as well as other aging network services, are trying to meet the needs/expectations of increasingly culturally and ethnically varied populations. Thus better understanding of cultural differences becomes essential. In serving diverse populations, one size does not fit all. And diversity does not mean simply racial or ethnic distinctions; it also includes specific populations such as immigrant elders, older persons with disabilities, and lesbian, gay, bisexual and transgender (LGBT) older persons. Doing outreach and serving diverse populations must be grounded in the particular populations’ values and perceptions. This is particularly true of legal services, as many in the target populations have little or no experience working with attorneys/legal services.

Space does not permit any in-depth discussion of cultural competence in serving diverse communities, but the Administration on Aging, ACL, has developed “*A Toolkit for Serving Diverse Communities*” which can be very useful. It can be found on their website at http://www.aoa.gov/AoA_programs/Tools_Resources/DOCS/AoA_DiversityToolkit_Full.pdf.

*F.3.b. Overcoming
Communication
Obstacles*

Legal providers must have, or be able to obtain, the capacity to communicate with persons who are particularly needy due to such things as hearing impairments, language barriers, or mental disabilities. These communication barriers may be overcome by hiring of bi-lingual or multi-lingual staff, or the use of foreign language or sign language interpreters⁴⁹, obtained either through local schools, local community centers or commercial programs.⁵⁰ Of course, programs with large numbers of non-English speaking elders should develop a reliable way to reach and communicate with these potential clients. Outreach materials should be available in a wide variety of formats to better reach clients with communication limitations.

Technology has increased the ways to communicate with deaf and hearing impaired persons. In addition to the growth in the quality and the types of assistive listening systems (ALS) or devices (ALDs)⁵¹, there has been a growth in technology to provide spoken information in written form. This includes new telecommunication technologies (discussed in F.6.d. below) and real-time text technologies. For deaf and hard of hearing persons who do not use sign language or speech reading (lip reading), Computer Assisted Real-Time Transcription or Communication Access Real-time Translation (CART) may be used. CART uses a stenographer and real-time text technologies to translate word-for-word live speech as it is being spoken. CART is most frequently used in a presentation setting with words projected onto a screen but it may also be used in one-on-one circumstances with the translation appearing on a laptop screen in front of the deaf person. While there are many options for effective communication with hearing impaired persons, it is most important, when possible, to use the communication method preferred by the deaf or hard of hearing person. For more information about communicating with hearing impaired persons, see the resources listed in the endnotes.⁵²

*F.4. Strategic
Outreach, Publicity
& Community
Education*

With the above overriding principles as guides, legal providers, with their AAAs and state legal developer, must develop strategic plans for informing targeted groups of their legal programs and of available services. As noted, many in the targeted client populations may not even recognize that their particular problem is a legal problem, thus reaching them requires well designed strategic outreach, program publicity, and community education.

*F.4.a. Strategic
Outreach*

Strategic Outreach is key to implementing targeting and priority setting goals. Almost by definition, the most vulnerable and needy older persons are the hardest to reach and serve, and many will only be reached through focused efforts to reach out to them and do it using methods and in locations where they are likely to be comfortable. Presentations at senior centers and meal sites will miss many of the most needy, as the persons at those sites are already part of the aging service network and are therefore already receiving some support services.

Several strategies for focused outreach include:

- developing special outreach projects with social service providers who work with various target groups, e.g. staff at Hispanic Community Service Centers. These types of linkages can also help legal providers to make

effective and successful referrals to address non-legal needs a client may have or to obtain assistance with transportation, interpretation, or other services that may enable a client to take full advantage of the legal provider's help.

- choosing times and locations where target groups are likely to congregate. For example, once-a-month Sunday outreach and intake at churches whose congregations are comprised of low-income minority individuals or outreach and intake in low-income housing projects.

As noted above, the requirement of appropriate outreach to low-income minority individuals was strengthened by the 1987 Amendments and again in the 1992 Amendments, and remains strong today. Thus, as area agency and legal assistance budgets are cut or remain stagnant, outreach programs that target these individuals should be maintained.

*F.4.b. Publicity:
Informing
Targeted Groups of
their Legal Rights and
Available Services*

Publicity is necessary to inform potential clients and others associated with them (e.g. family, friends, neighbors, social service providers, etc.) about available services. Publicity must clearly describe the types of problems *handled/not handled* by the program as this may enable potential clients to make an educated decision about whether their particular problem is likely to be handled. Thus, publicity must accurately reflect service priorities. At the same time, however, it should not be so narrowly drawn as to discourage appropriate persons from pursuing services, but neither should it be so broad as to create unreasonable expectations of service. This risks ill will and animosity from rejected clients, as well as from other service providers and funders.

Publicity must be carefully planned to reach various target groups. Television and radio public service announcements and appearances by staff on talk shows geared to the elderly and/or broadcast in a foreign language can be an effective means of reaching persons who are isolated, unable to read or are non/limited-English speaking. In terms of cultural competence, it is important to be aware of how targeted groups use and respond to different types of media. For example, a weekly paper or particular talk show program may be especially popular with some segments of the targeted population. Where possible, try to get publicity at no cost to the program. Publicity that is not delivered in the manner in which a particular population is accustomed to receiving information will not be effective.

Printed publicity materials must follow similar rules. They must be written in a manner and at a level understandable to those targeted to read them. This may require the services of an expert in readability. Most word processing programs today have a feature that will measure the number and length of words and sentences, and provide a readability score. Materials should depict persons who are racially and ethnically representative of the targeted clients. If a significant percentage of the population is non-English speaking, then publicity must be made available in the appropriate language(s).

F.4.c. Community Education-Informing Targeted Groups of their Legal Rights and of Available Services

Another important way to inform targeted groups of their legal rights and available legal services is through carefully designed community legal education. It is not enough simply to give talks at senior centers, nutrition sites, or even sites where targeted clients congregate. Providers must offer information about priority legal issues. Such information should include simple suggestions about what kinds of things are indicators that someone has a particular problem. For example if someone is threatened with eviction they should know about basic rights of tenants, and what legal services can do to protect those rights. They should also know, for example, that if the reason for the eviction is non-payment of rent, and the reason for non-payment is that the person's SSI has been cut back, that legal services can also help with that issue. Community education can also be an effective means of preventing legal problems from occurring.

F.4.d. Contacts with the Media

Contacts with the media can be an important part of informing targeted groups about their rights. This might include spreading the word about a particular scam, a new benefits program, or a change in the law, along with information on how to obtain help. Connections with the media can also serve as an effective method of advocacy, allowing the program to help frame or shape the public discussion of an issue and helping to build support for a point of view beneficial to older persons in the community or the state.⁵³ When considering how to develop a working relationship with local media, find out if the paper or local TV or radio stations have special staff assigned to consumer issues, to aging issues or to issues affecting other specific populations targeted by the program.

Relationships with the media can serve both the needs of the program and the needs of the media outlet. News organizations are looking for information to share and programs that provide them with information that impacts their audience, or that help to meet their need for news. Similarly, news outlets may be the first to hear of a local event that affects the elderly population, e.g. a disaster like a fire at a nursing home or a consumer fraud complaint. In these circumstances a news outlet might contact the program to inform them of the problem and might also benefit from having program staff serve as an expert for a news report on the issue.

A final issue to consider when exploring strategies for increasing a legal services program's public presence, is the use of social media, especially Facebook. This is becoming an increasingly important method for reaching a large audience. We touch on the use of social media in F.6.e.

F.5 Coordinate with LSC & Other Legal and Social Service Providers

Coordination with the local LSC program (if the provider is not an LSC grantee) and with other providers of service to the elderly or to targeted client populations, such as minority and non-English speaking seniors, are also necessary components in reaching targeted clients.

F.5.a. Coordinating with LSC Programs

The Act requires that each legal program coordinate its services with the local LSC program (if the Title III provider is not an LSC grantee) and with the private bar, including groups within the private bar furnishing services to older individuals on a *pro bono* and reduced fee basis.⁵⁴ It also mandates that Title III legal assistance shall be furnished "*in addition to any legal assistance for*

*older individuals being furnished with funds from sources other than this chapter. . . .”*⁵⁵

The requirement to coordinate with the local LSC grantee may seem somewhat difficult to reconcile with the prohibition against means testing since the LSC Act requires use of a means test. In addressing this quandary, it is important to note that Congress added legal assistance as a priority service in 1975 after determining that needs of the elderly were not being met through either LSC offices or the private bar. The Act clearly states that the purpose of this coordination is to assure that the funds provided under the Act are concentrated on those with greatest need.⁵⁶

When this requirement was first added to the Act in 1978, the Conference Report language dealing with the prohibition against means testing stated: “. . . no applicant should be directed to seek services through a Legal Services Corporation project.”⁵⁷ This suggests that Congress felt that directing applicants first to seek services from an LSC project before being assessed for eligibility for Title III would constitute an indirect means test and was therefore not allowed. It is quite clear, however, that Congress did not intend that older, low-income clients could never be referred to a LSC program, since this would interfere with effective coordination.

Thus, it seems that the dilemma posed by the mandate to coordinate with LSC can be resolved by developing case priorities that complement those of the LSC provider. For example, most LSC offices handle public housing, domestic violence and family law cases, and landlord/tenant problems, which are experienced by many low-income persons regardless of age. A Title III program would still have the flexibility to represent an older client with a landlord/tenant problem, if referred by the LSC office for not meeting eligibility guidelines. In every instance, it is essential to work closely with the local LSC program to avoid a client being bounced between programs or falling through the cracks.

F.5.b. Coordinate with Social and Other Non-Legal Service Providers, including looking to them as Secondary Referral Sources

As mentioned above, another effective means of reaching targeted client populations is by coordinating with providers of non-legal services who may be likely to come into contact with targeted populations and who understand the particular needs and cultural sensitivities of the targeted groups. These other providers may be of great benefit by identifying potential clients as well as potential places and methods of outreach.

One very important role for these other providers is to serve as secondary referral sources to legal assistance services. That is, if they are trained (and receive written materials) on basic things that might be indicators of legal problems and they see those indicators in the course of providing other services and supports to target groups, they can refer the individual to legal services. And if it appears that person would have difficulty connecting with legal services on his or her own, these secondary referral sources may be able to assist the person in making the connection.

They can also assist by reviewing program materials, and plans for educational programming and outreach strategies, for cultural relevance and

sensitivity. These linkages benefit both legal assistance and social service programs by assuring that referrals between them are appropriate, and that potential clients are aware of the full range of available services. The following are examples of some productive linkages between legal programs and providers of other services:

- (1) Coordinate with the local Long-term Care Ombudsman program to reach nursing home residents;
- (2) Train volunteers and staff who deliver meals and other home services on how to recognize priority legal problems and refer persons with legal needs to the legal provider;
- (3) Coordinate with protective services so that protective services workers are better able to recognize and refer clients with legal problems; and
- (4) Solicit assistance from providers, such as Catholic Social Services, Jewish Family Services, domestic violence shelters, the protection and advocacy agency, and others who serve special populations such as immigrants or victims of domestic violence.

*F.5.c. Consider
Creating an Advisory
Committee or
Community Coalition*

Legal providers may also want to consider creating an Advisory Committee as this can be an effective way to obtain input about the needs, interests, and preferences of target populations. Such a committee should be diverse and include representatives of the target populations, as well as other service providers and community leaders who serve or represent targeted groups. The committee can be formal, or informal, and meet regularly, or as needed. Members of the group can serve as a sounding board for evaluating program publicity and descriptive material, outreach methods and sites, program priorities, and client materials. Advisory committee members can alert legal program staff to emerging trends among various target populations.

Alternatively, or in conjunction with an advisory committee, legal providers could join, or start if not already in existence, a local coalition of human service agencies. Participation in such a group could provide many of the same benefits of an Advisory Committee without the need to devote a great deal of staff resource time to the effort. Many communities already have such coalitions. These groups, made up of human service providers, public and private organizations and individuals provide a venue for addressing community needs through interagency cooperation and collaboration. In fact the OAA, calls for coordination at all levels, Federal, state and local.⁵⁸

**F.6. Make Services
Accessible and User
Friendly**

Easily accessible services and user friendly offices are essential to targeting and successfully reaching those in greatest need. Legal providers should periodically assess their offices and operations against the following.

*F.6.a. Location and
Times of Operation of
Office and Intake
Sites.*

The office and intake sites should be located within the targeted client communities (low-income areas, areas with sizable low income minority populations, etc.) or in areas easily accessible to them. Likewise, services should be designed to be accessible to those who live in rural areas. If the provider serves an area fortunate enough to have good public transportation, the office and intake sites should be located near it. Additionally, providers should coordinate with AAAs to ensure that legal assistance clients who need it have access to transportation services in order to attend meetings or

hearings related to their case.⁵⁹ It is extremely important that targeted clients not be fearful of coming to the office or intake sites. The office and parking at the central office and intake sites must be accessible to the frail and disabled, or reasonable accommodations must be made.⁶⁰

Likewise, intake hours and scheduling should be designed to maximize accessibility of services. Programs may need to restrict intake in order to address concerns with caseloads, but intake should be available at times and places most convenient to targeted groups. While it is helpful to establish a routine for intake sites so clients will know when project staff will be available for intake and assistance, programs should be flexible. Flexibility will enable a program to respond to natural disasters, react to changes among the client population, and otherwise provide intake at unusual sites if it is likely that targeted groups may be reached there. Some examples of non-traditional potential intake locations are disaster assistance sites, health fairs, ethnic community events, social security offices, and courthouses, among others.

F.6.b. Home and Institutional Visits

It is essential to make some home or institutional visits so that economically or socially needy persons who are homebound, unable to travel, or in nursing homes will be reached. Where necessary, programs can work by phone or by mail in conjunction with home and institutional visits and, with the client's permission, work with and through agencies providing home visits or institutional services. For example, a visiting nurse may contact the legal program on a client's behalf, and assist with faxing relevant papers, etc., provided the program receives permission directly from the client to work with the third party.

F.6.c. User Friendly & Culturally Sensitive Offices

Providers should keep in mind that many older persons are not comfortable or experienced with lawyers. Thus it is important to make the office "user friendly" and avoid unpleasant environments which might dissuade targeted clients from utilizing services. Client rapport may be enhanced if some staff are older persons and reflect the racial, ethnic or social backgrounds of targeted groups.⁶¹ Providers serving a multicultural community should make efforts to raise cross-cultural sensitivity in the office. This requires an ongoing effort to educate and inform staff about the unique perspectives, beliefs, traditions and customs of the other cultures in the area served by the office.

F.6.d. Telephone Access

A legal provider serving a large geographical area may need a toll-free number to enhance accessibility for clients in outlying rural areas. If a toll-free number is not affordable or the expense is not justifiable, the provider may want to establish and publicize a policy of accepting collect calls, and instruct the staff to obtain the caller's telephone number and return the call immediately. Further, providers should have a phone system that enables a client to leave an emergency message during times when staff members are not available to answer the phone. Although an answering machine is critical, answering machines can pose barriers for some clients who may be reluctant to leave a message or who may not have a phone and therefore cannot leave a call-back number. Where resources allow, it is important to provide phone access to a real person, who can answer questions about the program and its services, or at a minimum, take a message.

Due to ever changing technology, persons with hearing impairments have a range of choices for communicating from home with providers. Increasingly this is happening over the internet, and we discuss internet usage by the deaf and hard of hearing in the following section. In this section we focus on various telephonic methods for communication currently in use. A provider should have some knowledge of these technologies and be prepared to make accommodations in order to use the client's preferred communication method.

According to Christian Vogler, Gallaudet University's Director of Technology Access Program (TAP), 10% of deaf and hard of hearing telephone communication occurs using TTY equipment. While no data exists breaking that number down by age or other demographic characteristics, it is thought that older people and people living in rural areas use TTY equipment in a higher percentage than average. Another popular method of communication is videophones and captioned telephones. Videophones allow people to communicate in sign language over the video. Captioned telephones use a free service that provides live captions of what the speaking party has said. Videophones only make sense if the provider has a staff member who can sign. Captioned telephones don't require special equipment on the provider side (only on the client side). TTY services can be provided from TTY phone to TTY phone or using a free relay service. Program staff needs to be aware of what is needed to receive or make relay calls. It is especially important that they do not hang up upon hearing the relay service announcement.⁶²

F.6.e. Internet Access

As noted, communication is now increasingly occurring through the internet. The internet and other related technologies are becoming the norm for service delivery for many businesses and agencies and have the potential to increase access to information and services for those who are disabled or home-bound, especially those persons who are speech or hearing impaired. And yet, many of the most needy and vulnerable older clients do not have current meaningful access to this technology. However, for those who do, providers should make use of the internet to provide additional gateways to legal information and program services. Websites should list email addresses, intake hours, directions (including information about getting to the office using public transportation or Title III funded transportation services), procedures, and program priorities. In addition to a web page, providers should consider creating a Facebook page for the office. As more and more older Americans adapt to social networking, Facebook and other social media can provide a low-cost, friendly option for reaching and informing potential clients of services.⁶³ An additional benefit to Facebook, is the potential to use it to promote program services and initiatives to the general public, volunteers, and potential donors.⁶⁴ In addition to Facebook and email, providers should consider allowing requests for services to be made via video chats or video calling, e.g. Skype. The greater the methods of access available to clients, the less the likelihood that a program will fail to learn of a client's needs. A program's targeting plan should consider those who are likely to be reached by (and those who will not be able to take advantage of) each delivery method employed or considered.

G. Evaluating Targeting and Outreach Efforts

In order to determine a program's success at reaching a target population, it is important to obtain feedback from targeted clients and the other service providers who serve your target groups. As mentioned above, an advisory committee can be an effective tool in helping to reach out and to evaluate efforts to attract targeted groups to your program.

Program data can also help evaluate success at reaching particular groups. Legal providers may want to consider collecting data on client ethnicity, race, and English proficiency, or living arrangements to determine whether targeted groups are being served. In addition, providers may wish to collect data on how the client learned about the service. They can use this information to identify the outreach methods that most effectively reach target populations.

It is helpful to review periodically program data on clients served and to compare this data with the list of identified target groups to determine which groups are being reached, which groups are being missed, and where additional outreach or other targeting strategies might be needed. Technology advances have enabled many programs to generate maps which show where certain types of clients live. These maps, along with less formal strategies, can help a program determine the effectiveness of targeting efforts on a regular basis.

Finally, targeted clients should be given an opportunity to evaluate program services and material and this gathered data should be used to refine the outreach plan, materials and priorities. Evaluations should be done only after work on the client's case has been completed. The evaluation should attempt to measure the client's satisfaction with program services and solicit information on how services may be adapted or improved to be more accessible and to better meet the needs of targeted clients.

H. Conclusion

Although targeting is critical to the provision of impactful, meaningful legal services, the issues surrounding targeting, priority setting, means testing and outreach, are challenging. However, it may be easier to reconcile some of the seeming inconsistencies in the Act, the legislative history and the regulations if one keeps in mind that one of the hallmarks of the Older Americans Act is its promotion of flexibility and cooperation in State and local planning. Through the prohibition against means testing and the requirements for targeting certain populations, Congress has imposed a framework on Title III legal assistance providers, rather than strictly circumscribed parameters. Working cooperatively, AAAs, local providers, and the state legal services developer must establish protocols and procedures within this framework, but otherwise have great flexibility to develop and conduct legal programs. The effort to tackle these issues together promises to strengthen rapport between the actors in the aging and legal services networks and to result in the provision of legal services that best meet the needs and fit the circumstances of the socially and economically needy clients in the particular service area.

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3 42 U.S.C. §3003 (1973), *amended by* 42 U.S.C. §3003 (1981).
4 Older Americans Act Amendments of 1978, Pub. L. No. 95-478, §306(a)(5)(B), 92 Stat. 1513, 1523 (1978) (current
5 version at 42 U.S.C. §3026(a)(4)(B) (2011)).
6 Older Americans Act Amendments of 1984, Pub. L. No. 98-459, §305 –§306, 98 Stat. 1767, 1773-1774 (1984)
7 (current version at 42 U.S.C. §3025(a)(2)(E), §3026(a)(4)(A) - (C) (2011)).
8 Older Americans Act Amendments of 1987, Pub. L. No. 100-175, §§305-306, 101 Stat 926, 939-940 (1987)
9 (current version at 42 U.S.C. §3025(a)(1)(E), §3026(a)(1) (2011)).
10 Older Americans Act Amendments of 1987, Pub. L. No. 100-175, §307, 101 Stat. 926, 940 (1987) (current version
11 at 42 U.S.C. §3027(a)(16) (2011)).
12 Older Americans Act Amendments of 1992, Pub. L. No. 102-375, §305(a)(2)(G)(i-iii), 106 Stat. 1222 (1992)
13 (current version at 42 U.S.C. §3025(a)(2)(G)(i-iii) (2011)).
14 Older Americans Act Amendments of 1992, Pub. L. No. 102-375, title VII, §§701 - 764, 106 Stat. 1271-1293
15 (current version at 42 U.S.C. §3058-3058ff (2011)).
16 Older Americans Act Amendments of 2000, Pub. L. No. 106-501, §304, §305 114 Stat. 2226, 2240 (2000), (current
17 version at 42 U.S.C. §3025(a)(1)(E), §3026(a)(1), §3026(a)(4)(C) (2011)).
18 42 U.S.C. §3025(a)(1)(E), §3026(a)(1), §3026(a)(4)(A) (2011).
19 H.R. REP. NO. 109-493, at 46 (2006).
20 42 U.S.C. §3026(a)(4)(B) (2011). Similar language about State Plans at 42 U.S.C. §3027(a)(16) (2011), with the
21 exception that older individuals at risk of institutional placement are not mentioned.
22 42 U.S.C. §3025(a)(2)(E) (2011).
23 42 U.S.C. §3002(23)-(24), §3002(43) (2011).
24 The use of the OMB poverty levels to define "greatest economic need" was new in 1987. Prior to that it had been
25 defined according to the Bureau of the Census poverty threshold.
26 The Administration on Aging is now under the umbrella of the Administration for Community Living (ACL). ACL,
27 created by the Department of Health and Human Services in 2012, brings together the Administration on Aging,
28 the Office on Disability and the Administration on Developmental Disabilities in a single agency. The current
29 Assistant Secretary for Aging also serves as the Administrator of ACL. For more information about this change
see the Federal Register notice: Statement of Organization, Functions, and Delegations of Authority;
Administration for Community Living, <http://www.hhs.gov/acl/files/2012-9238.pdf> or the website of the ACL,
<http://www.hhs.gov/acl/>.
42 U.S.C. §3012(a), §3017(a), §3018(c), §3020c(b)(2011).
42 U.S.C. §3026(a)(5) (2011). The 2006 Amendments added the requirement that particular attention also be paid
to individuals at risk for institutional placement.
42 U.S.C. §3002(33) (2011). The uniqueness of the targeting requirements in the legal assistance definition is
highlighted by an examination of the definition of "information and assistance service." Although this definition
contains targeting language, requiring that the service target older individuals with the greatest social and
economic needs as well as older individuals at risk for institutional placement, it clearly prefaces this directive by
defining the service as one that "serves the entire community of older individuals." 42.U.S.C. §3002(28)(2011). The
definition of "legal assistance," defines the service as one delivered to older individuals with economic or social
needs and does not require serving the entire community.
42 U.S.C. §3002(33) (2011).
42 U.S.C. §3027 (a)(11)(B) (2011).
42 U.S.C. §3027(a)(11)(E) (2011).
S. Rep No 151, 102d Cong. At 91 (1991).
42 U.S.C. §3030d(a)(6)(B) (2011).
*Joint Hearing before the U.S. Senate, Special Committee on Aging and the Subcommittee on Aging of the
Committee on Labor and Human Resources: Regulations to Implement the Comprehensive Older Americans Act
Amendments of 1978, 96th Cong. (1979).*
All references to Older Americans Act Regulations are to the most recent regulations which were issued in 1988
for the 1987 Amendments to the Act. Until new regulations are promulgated, the 1988 regulations remain in effect
and are found at 45 CFR §1321 *et seq.*
45 C.F.R. §1321.67 (2012).
45 C.F.R. §1321.3(2012).

30 45 C.F.R. §1321.71(d) (2012).
31 H.R. CONF. REP. NO. 95-1618, at 65, (1978).
32 Older Americans Act Amendments of 2000, Pub. L. No. 106-501, §310, 114 Stat. 2226, 2247 (2000) (current
version at 42 U.S.C. §3030c-2(a)(2) (2011)).
33 Older Americans Act Amendments of 2000, Pub. L. No. 106-501, §315(b)(3), 114 Stat. 2226, 2248-2249 (2000)
(current version at 42 U.S.C. §3030c-2(a)(5), §3030c-2(b)(3) (2011)).
34 42 U.S.C. §3030c-2(b)(1) (2011).
35 Older Americans Act Amendments of 2006, Pub. L. No. 109-365, §310, 120 Stat. 2521, 2546 (2006) (codified as
amended at 42 U.S.C. §3030c-2(b)(1)).
36 H. R. REP. No. 109-493, at 53 (2006).
37 45 U.S.C. §3030c-2(b)(3) (2011).
38 42 U.S.C. §3030c-2(b)(4)(E)(2011).
39 H.R. REP. No. 109-493, at 53 (2006).
40 45 C.F.R. § 1371.71(e) (2011).
41 42 U.S.C. §3012(a)(20)(A) (2011). While not explicitly stated in the Act or regulations, this provision would indicate
that *all* service providers, not just legal providers, can, and should, inquire about income when doing outreach and
working with older persons in economic need, so long as the provider and the older person understand the
information is not a criterion for receiving OAA services. Rather the purpose is limited to exploring eligibility for
other benefits and services.
42 For more on the Medicare Savings Program (MSP), see for example: [http://www.medicareadvocacy.org/the-
medicare-improvements-for-patients-and-providers-act-improving-enrollment-in-the-medicare-savings-program-
five-years-later/](http://www.medicareadvocacy.org/the-medicare-improvements-for-patients-and-providers-act-improving-enrollment-in-the-medicare-savings-program-five-years-later/).
43 In fact, for reporting on *outcomes for legal assistance services*, many legal programs have begun to track and
report the amount of financial benefits obtained by clients as a result of the legal program's efforts.
44 The 2006 Amendments to the Act require the Assistant Secretary to implement Aging and Disability Resource
Centers (ADRCs) in all states to serve as the one-stop source of information assistance, and access for older
individuals planning for, or needing long-term care, including institutional, home, or community-based care. 42
U.S.C. 3012(b)(8)(2011) For current information about the program see
http://www.aoa.gov/AoA_programs/HCLTC/ADRC/ADRC_Program.aspx.
45 Some legal assistance offices have started creating educational materials describing how estates are disbursed
under the state intestate laws if a person dies without a will. For many older persons, without significant
resources, this information puts their minds at ease and reassures them a will is not critical.
46 42 U.S.C. §3027(a)(11)(E) (2011).
47 42 U.S.C. §3030d(a)(6)(B) (2011).
48 Under provisions added in the 2006 reauthorization of the OAA, state and area plans must now include information
about how state and area agencies will develop long-range emergency preparedness plans, and coordinate
activities, with other agencies and organizations responsible for emergency preparedness. 42 U.S.C.
§3026(a)(17), §3027(a)(29)–(3)(2011).
49 There are several kinds of sign language interpreters, including American Sign Language (ASL), signed English,
oral, and cued speech interpreters. Be sure to clarify what kind of interpreter the deaf person wants.
50 There are many commercial translation services available. Some allow for pay-as-you-go or on-demand translation
services based either on a cost-per-minute or cost-per-hour fee. There are also monthly contract options.
Charges may vary greatly depending on the language being translated, the subject matter being discussed, and
the volume of the services provided.
51 When providing community education, a provider may want to look for a location that has the capacity to provide
assistive listening technology. Some public spaces are required under the Americans with Disability Act (ADA), to
have ALSs, including movie theaters, performance theaters, and public classrooms. Colleges, universities, city,
county and state offices may have rooms equipped with ALS. See, National Association of the Deaf, *Assistive
Listening Systems and Devices*, <http://www.nad.org/issues/technology/assistive-listening/systems-and-devices>.
52 See *Tips for Communicating with Deaf and Hard-of-Hearing People*, [http://www.scha.org/files/documents/tips-for-
communicating-with-deaf-and-hard.pdf](http://www.scha.org/files/documents/tips-for-communicating-with-deaf-and-hard.pdf), produced by the South Carolina Hospital Association. Also, U.S.
Department of Justice, Civil Rights Division, Disability Rights Section, *Americans with Disabilities Act, ADA
Business Brief: Communicating with People Who are Deaf or Hard of Hearing in Hospital Settings*,
<http://www.ada.gov/hospcombrscr.pdf> (October 2003).

53 Michigan Coalition Against Domestic and Sexual Violence, Working with the Media: A Toolkit for Service
Providers, 1. <http://www.mcadsv.org/resources/files/providers/Advocates.pdf>.

54 42 U.S.C. §3027(a)(11)(A)-(B) (2011).

55 42 U.S.C. §3027(a)(11)(D) (2011).

56 42 U.S.C. §3027(a)(11)(B) (2011).

57 H.R. CONF. REP. 95-1618, at 65 (1978).

58 Provisions of the Older Americans Act addressing coordination include: 42 U.S.C. §3012(a)(11); 42 U.S.C.
§3022(1)(D); 42 U.S.C. §3003; 42 U.S.C. §3026 (a)(5) and (a)(6)(E); 42 U.S.C. 3027(23)(A); and 42 U.S.C.
§3030d(c).

59 42 U.S.C. §3027(a)(24), §3026(a)(2)(A) (2011).

60 Under the Americans with Disabilities Act (ADA), providers are also required to assure that services are accessible
to clients with disabilities, or make reasonable accommodations to enable disabled clients to receive program
services. (42 U.S.C. §12181-§12189 (2013)) The office must be accessible to clients with mobility impairments,
and services must be accessible to those who have hearing impairments. Those who have one or more
disabilities are among our most socially needy and vulnerable elders. Thus Title IIIB legal programs should be well
equipped to serve these clients and should devise outreach to encourage utilization of services.

61 See for example: (1) Erica F. Wood & Penelope A. Hommel, *Communicating Effectively with Older Clients*, NEW
JERSEY LAWYER, Feb. 1985, at 59. (2) AARP, NATIONAL LEGAL TRAINING PROJECT, EFFECTIVE COUNSELING OF
OLDER CLIENTS: THE ATTORNEY-CLIENT RELATIONSHIP (1995).

62 Our thanks to Christian Vogler of TAP for his explanation of the various methods of telecommunication. As Mr.
Vogler described, each method of communication has its limitations. When using text based relay methods, the
conversation is much slower than a direct spoken conversation. The captioned telephone poses problems if the
caller has speech which is difficult to understand. Captioning errors are also possible. Video relay services are
highly dependent on interpreter skills. Also a TTY machine does not work well or at all with VoIP lines so providers
without an analog line may not be able to use a TTY machine in their office. For more information about
communicating with the deaf and hard of hearing see Gallaudet University's website at <http://tap.gallaudet.edu/>.

The range of methods for communicating increasingly means email, chatting using applications such as
Skype, and using social media, like Facebook. Recent research indicates that there is an ever increasing number
of seniors using the internet and social networking sites. This is discussed in greater detail in section, F.6.e.

63 A recent study by the Pew Research Center's Internet & American Life Project found that as of April 2012 over half
(53%) of seniors 65 and older are now online. For most of these seniors (82%), the internet is used on a daily
basis. Eighty-six percent of those seniors on-line use e-mail and one third (34%) are using social networking sites
like Facebook. From April 2009 until May 2011, social networking site usage among seniors grew 150%. Over
age 75, internet usage declines. As of April 2012, only 34% of seniors over 75 were using the internet. See
Kathryn Zickuhr and Mary Madden, *Older Adults and Internet Use: Summary of Findings*, Pew Research Center's
Internet & American Life Project, (June 6, 2012), [http://www.pewinternet.org/Reports/2012/Older-adults-and-](http://www.pewinternet.org/Reports/2012/Older-adults-and-internet-use/Summary-of-findings.aspx)
[internet-use/Summary-of-findings.aspx](http://www.pewinternet.org/Reports/2012/Older-adults-and-internet-use/Summary-of-findings.aspx).

64 For information about use of social media by non-profits see Blaise Lucey, *21 Ways Nonprofits Can Use Social
Media to Get Their Mission Across*, Constant Contact Blogs, Social Media Marketing,
<http://blogs.constantcontact.com/product-blogs/social-media-marketing/nonprofits-slides-facebook/> ; Maureen
West, *How Nonprofits Can Use Social Media to Spark Change*, The Chronicle of Philanthropy, February 20, 2011,
<http://philanthropy.com/article/How-Nonprofits-Can-Use-Social/126402/> ; Brad Aronson, *Social Media for
Nonprofits: 22-High-Impact , Low Cost Opportunities*, Brad Aronson's Blog, [http://www.bradaronson.com/22-high-](http://www.bradaronson.com/22-high-impact-low-cost-social-media-opportunities-for-nonprofits/)
[impact-low-cost-social-media-opportunities-for-nonprofits/](http://www.bradaronson.com/22-high-impact-low-cost-social-media-opportunities-for-nonprofits/).

States' Minimum Percentage of Title IIIB Funds & Expenditures for Legal Assistance

Since 1987, the Older Americans Act (OAA) has required state agencies on aging to establish a minimum proportion/percentage of Title IIIB funds to be expended by each area agency (in the absence of a waiver) on each of the IIIB priority services. The three priority services are: access, in-home, and legal assistance. In the April 2001 issue of the BPN, TCSG compiled information by polling state legal services developers on three things: (1) minimum percentage of IIIB funds established for legal services; (2) number of waivers granted allowing area agencies to expend no IIIB funds on legal services; and (3) number of waivers granted allowing area agencies to expend less than the IIIB minimum on legal services.

Below, we present an update of that information, plus additional information. The update also includes FY 2010 data on actual expenditures and actual percentages of IIIB funds spent on legal services. This data is from AoA's/ACL's FY 2010 National Aging Program Information System (NAPIS) report which can be found at http://www.aoa.gov/AoARoot/Program_Results/SPR/Index.aspx. Further, the update includes information collected from State Legal Services Developers on expenditures for legal services (see Note 4) as well as on minimum percentages and waivers.

Note 1: States with AAAs are shown in Section I. States without AAAs--i.e. the state agency makes the funding decisions re legal services--are in Section II.

Note 2: It is instructive to compare (a) the minimum % of IIIB funds [as set by the states] that each AAA must expend on legal services (middle column under "Collected from State Legal Services Developers in 2012 by TCSG") with (b) the % of IIIB actually spent by AAAs within states on legal services (column 3 under "FY 2010 NAPIS Reported Expenditures and Percentages"). In the majority of states, the percentage of IIIB actually spent by AAAs is substantially higher than the minimum percent.

Note 3: The figures from NAPIS Table 6a-Expenditures for Legal Services from Title III--(first column, left side of chart, under "FY 2010 NAPIS Reported Expenditures and Percentages") include expenditures from IIIB-Supportive Services, IIIC-Nutrition Services, and IIID-Disease Prevention Services (but not IIIE-Caregiver Support Program). Because neither Nutrition funds nor Disease Prevention funds are used for legal services, TCSG did its calculation of percentage of IIIB actually spent on legal services based on the assumption that the full amount expended on legal services came from IIIB, and not IIIC or IIID.

Note 4: Figures in first column, right side of Chart under "Collected from State Legal Services Developers in 2012 by TCSG" are rough, and do not reflect the same thing for all states. TCSG asked developers for Title IIIB Expenditures for Legal Services. Some supplied IIIB only; others included state and local match, and others included other non-IIIB sources of funds. We provide as much detail as available to us.

State	FY 2010 NAPIS Reported Expenditures and Percentages				Collected from State Legal Services Developers in 2012 by TCSG.		
	Expenditures for legal services from III-B - NAPIS Table 6a. (see Note 3 above.)	Expenditures for all III-B services (legal and other) - NAPIS Table 7	Expenditures for legal as % of all III-B expenditures- TCSG calculated. (See Note 3.)	Expenditures For legal from all sources - (T III, match & other) - NAPIS Table 6b	III-B expenditures for legal services statewide (See Note 4 above.)	Minimum % of III-B funds that each AAA must spend for legal services- set by state	Information on waivers allowed by State
Section I: States with AAAs							
AK (0 AAAs)	See Section II						
AL (13 AAAs)	\$404,576	\$5,374,451	7.53%	\$780,357	\$418,670 (incl state & local match) in FY 11.	6.70%	no waivers
AR (8 AAAs)	\$122,079	\$2,807,196	4.35%	\$134,153	\$124,256.40	5% (recently increased from prior 2% minimum)	no waivers
AZ (8 AAAs)	\$522,318	\$8,706,140	6.00%	\$797,805	Currently \$515,567 IIIB in AAA budgets	4.00%	no waivers
CA (33 AAAs)	\$3,671,102	\$28,464,543	12.90%	\$10,490,475	\$4,064,124 fed share of IIIB. Total expenditure for legal was \$10,715,938 in FY10/11 which included match, leveraged funds and program income	No set %	All AAA's in CA are funded for Legal Assistance, but 3 AAA's currently do not have a provider contract, despite sending an RFP (no takers).

State	Expenditures for legal services from III-B - NAPIS Table 6a. (see Note 3 above.)	Expenditures for all III-B services (legal and other) - NAPIS Table 7	Expenditures for legal as % of all III-B expenditures- TCSG calculated. (See Note 3.)	Expenditures For legal from all sources - (T III, match & other) - NAPIS Table 6b	III-B expenditures for legal services statewide (See Note 4 above.)	Minimum % of III-B funds that each AAA must spend for legal services- set by state	Information on waivers allowed by State
CO(16 AAAs)	\$450,672	\$4,220,089	10.68%	\$704,517	CO spent \$380,671 on IIIB legal in Fed. FY 2011	3%-most AAAs exceed that by 3-4%	No waivers to spend \$0.1 waiver to spend less than 3% (waiver no longer exists as another provider took over contract).
CT (5 AAAs)	\$296,071	\$3,843,713	7.70%	\$584,223	\$254,131 of IIIB funds	6%-Several AAAs exceed	no waivers
DC (0 AAAs)	See Section II						
DE (0 AAAs)	See Section II						
FL (11 AAAs)	\$1,781,275	\$28,290,368	6.30%	\$2,180,410	\$1,700,000	1.00%	no waivers
GA (12 AAAs)	\$740,153	\$6,289,526	11.77%	\$1,083,532	\$734,019 of IIIB. Total \$1,040,925 **Georgia looks at min funding both in terms of a min. % and also a minimum dollar amount deemed the floor for a legal services program.	Georgia takes a noteworthy approach requiring a minimum of 5% of IIIB funds or \$60,000 (which may not include state/local match) -- <u>whichever is greater</u> -- and no less than \$20,000 must come from IIIB funds.	no waivers
HI (4 AAAs)	\$331,646	\$1,470,645	22.55%	\$394,525	\$292,464 of IIIB	no set %	no waivers
IA (AAAs reduced from 13 to 6 as of 7/1/2013)	\$213,398	\$3,261,472	6.54%	\$324,719	\$239,902	3.00%	no waivers
ID(6 AAAs)	\$88,569	\$1,680,310	5.30%	\$97,253	\$90,605 for legal services	3% (Info supplied by a AAA.)	no waivers
IL (13 AAAs)	\$892,807	\$11,408,776	7.83%	\$1,998,128	\$951,701 in total IIIB funding for legal	2.90%	no waivers
IN(16AAAs)	\$253,758	\$6,642,028	3.82%	\$452,786	Information not available	3%	Information not available.
KS(11 AAAs)	\$267,064	\$2,962,179	9.02%	\$342,579	\$351,879 FFY 2011	5.00%	no waivers
KY(15 AAAs)	\$199,356	\$4,944,305	4.03%	\$301,564	KY budgets \$231,134 for Legal	No set % for legal, but do require a minimum of 65% of IIIB to go to access, in-home and legal combined.	no waivers
LA (36 AAAs)	\$76,631 (NOTE: TCSG believes this may be an error in NAPIS data.)	\$4,416,836	1.73%	\$293,792	\$269,372	5.00%	LA has discontinued any waivers of any kind.
MA (23 AAAs)	\$1,206,916	\$5,414,752	22.29%	\$2,305,972	\$1,222,309 based on 2011 State Prog Rept	8% but w/ Maintenance of Effort for IIIB firm late 1980s. Actual ranges from 8% to 28%. A few AAA's fund over the Maintenance of Effort level.	no waivers

State	Expenditures for legal services from III-B - NAPIS Table 6a. (see Note 3 above.)	Expenditures for all III-B services (legal and other) - NAPIS Table 7	Expenditures for legal as % of all III-B expenditures- TCSG calculated. (See Note 3.)	Expenditures For legal from all sources - (T III, match & other) - NAPIS Table 6b	III-B expenditures for legal services statewide (See Note 4 above.)	Minimum % of III-B funds that each AAA must spend for legal services- set by state	Information on waivers allowed by State
MD (19 AAAs)	\$351,451	\$4,229,381	8.31%	\$941,542	FY 2011, total IIIB funding was \$429,442	5.00%	Allow waiver for \$0 IIIB if AAA can show pro bono sufficient to meet need. Have only had one (rural) of 19 AAAs exercise this option)
ME(5 AAAs)	\$138,258 (NOTE: TCSG believes this may be an error in NAPIS data.)	\$1,147,334	12.05%	\$147,789 (NOTE: TCSG believes this may be an error in NAPIS data.)	\$340,000 of \$1M+ budget	10.00%	no waivers
MI(16 AAAs)	\$736,562	\$8,310,381	8.86%	\$966,977	\$744,130 in FY2011 (FY2012 allocations are for \$640,000, but actual expenditures will likely be higher.)	6.50%	1 waiver - AAA uses millage \$ to meet 6.5% min.
MN(14 AAAs)	\$570,493	\$3,634,033	15.70%	\$1,247,500	\$693,000	Not to exceed 25%; no official policy, but general guideline is 5% minimum	No AAA's spend less than 5% on legal services.
MO (10 AAAs)	\$197,451	\$6,519,198	3.03%	\$231,294	\$66,836 of IIIB is the minimum amount required.	1.00%	no waivers
MS (10 AAAs)	\$101,671	\$1,310,427	7.76%	\$147,662	Information not available	Information not available	Information not available
MT (11 AAAs)	\$84,546	\$1,126,904	7.50%	\$161,466	MT IIIB funds is \$178,000	4.00%	no waivers
NC (17 AAAs)	\$452,033	\$12,823,854	3.52%	\$538,132	NC budgets \$224,445 for IIIB Legal	2.00%	no waivers
ND (0 AAAs)	See Section II						
NV (0 AAAs)	See Section II						
NE (8 AAAs)	\$155,731	\$2,152,868	7.23%	\$333,258	\$44,000	2% A few AAAs do more than the minimum	no waivers
NH (0 AAAs)	See Section II						
NJ (21 AAAs)	\$1,171,036	\$9,581,425	12.22%	\$1,809,970	\$743,000	5.00%	no waivers
NM(6 AAAs)	\$130,112	\$1,643,920	7.91%	\$623,286	\$104,711 (plus \$239,289 in state funds & \$36,000 in local money.)	2.10%	no waivers
NY(59 AAAs)	\$2,583,296	\$16,102,744	16.04%	\$4,267,989	\$3,546,723	7.00%	no waivers
OH (12 AAAs)	\$770,385	\$9,364,411	8.23%	\$1,095,572	\$768,865 from IIIB. (Total exp. including match, other resources and \$38,732 of IIIE \$, was \$1,152,700)	5.00%	no waivers

State	Expenditures for legal services from III-B - NAPIS Table 6a. (see Note 3 above.)	Expenditures for all III-B services (legal and other) - NAPIS Table 7	Expenditures for legal as % of all III-B expenditures-TCSG calculated. (See Note 3.)	Expenditures For legal from all sources - (T III, match & other) - NAPIS Table 6b	III-B expenditures for legal services statewide (See Note 4 above.)	Minimum % of III-B funds that each AAA must spend for legal services- set by state	Information on waivers allowed by State
OK (11 AAAs)	\$292,910	\$3,522,332	8.32%	\$339,447	In state FY 2011 \$230,998 from IIIB funds (\$346,497 total spent on legal assistance in OK)	30% of IIIB funds in OK go to three priority service categories- access services, in-home services, & legal assistance with no less than 5% for any one priority service	no waivers
OR (18 AAAs)	\$279,562	\$3,153,686	8.86%	\$390,980	\$266,098 IIIB funds for legal in 2011	3.00%	no waivers
PA (57 AAAs)	\$820,625	\$24,667,226	3.33%	\$1,887,661	Information not available	Information not available	Information not available
RI (0 AAAs)	See Section II						
SC (10 AAAs)	\$153,722	\$5,487,882	2.80%	\$195,772	Legal services dollars: \$126,328	Ind.AAAs/ADRCs (rather than state) set min.%	Some set very low %'s; some higher than expected.
SD (0 AAAs)	See Section II						
TN (9 AAAs)	\$383,361	\$8,466,594	4.53%	\$474,521	\$446,204	No set %	no waivers
TX (28 AAAs)	\$1,319,361	\$19,564,328	6.74%	\$2,590,348	Information not available	2% is the minimum, but most AAA's spend more than that.	1 waiver is Texoma, but any AAA requesting a waiver needs to prove there is enough alternate funding for legal aid.
UT (12 AAAs)	\$54,065	\$1,827,708	2.96%	\$101,869	\$71,236	2.00%	no waivers
VA (25 AAAs)	\$306,168	\$9,993,195	3.06%	\$547,247	\$323,208 (this is the 1% budget amount), but \$495,423 is actually spent by the AAA's on legal services that includes local funds and non-Title IIIB funds.	1.00%	VA has had past waivers, but as of April 2012, no waivers are allowed.
VT (5 AAAs)	\$244,211	\$1,934,400	12.62%	\$291,437	\$252,715 (total state expenditures on legal services is \$307,583 from state and local funds.)	5.00%	no waivers
WA (13 AAAs)	\$815,842	\$6,609,510	12.34%	\$817,412	Total T3B funding in 2011 was \$9,791,493 of this \$522,069 is held back for administration. The remainder is dispersed to the AAAs.	11.00%	no waivers

State	Expenditures for legal services from III-B - NAPIS Table 6a. (see Note 3 above.)	Expenditures for all III-B services (legal and other) - NAPIS Table 7	Expenditures for legal as % of all III-B expenditures-TCSG calculated. (See Note 3.)	Expenditures For legal from all sources - (T III, match & other) - NAPIS Table 6b	III-B expenditures for legal services statewide (See Note 4 above.)	Minimum % of III-B funds that each AAA must spend for legal services- set by state	Information on waivers allowed by State
WI (3 AAAs) (In 2013, WI went from 6 AAAs to 3)	\$1,125,147 (Note: this includes county-based benefit specialists)	\$4,479,663	25.12%	\$2,643,037 (Note: this includes county-based benefit specialists.)	\$328,423 for attorneys who supervise the Benefit Specialists and represent older persons on benefit matters	5.00%	no waivers
WV (4 AAAs)	\$75,000	\$2,342,065	3.20%	\$112,305	Total IIIB, incl state and federal for WV for FY2012 is \$103,261	WV has one statewide legal program, WV Senior Legal Aid. The SUA combines IIIB funds for each of 4 AAAs and supplements it with State funds. One AAA (NW AAA) then administers the contract.	no waivers
WY (0 AAAs)	See Section II						
Section II: States with No AAAs							
AK (0 AAAs)	\$97,890	\$1,712,876	5.71%	\$494,992	\$145,375 grant to AK LS-FY 11	Is no set %. Equals 8% of IIIB-\$1,827,011 in FY 11	not applicable
DC (0 AAAs)	\$72,306	\$1,418,246	5.10%	\$589,753	Information not available	No set %	not applicable
DE (0 AAAs)	\$73,119	\$1,819,157	4.02%	\$73,119	\$74,581 for FY 2012	No set %	not applicable
ND (0 AAAs)	\$298,674	\$1,757,334	17.00%	\$444,463	\$240,000	No set %, Flat amount of \$240,000	not applicable
NH (0 AAAs)	\$117,967	\$1,730,717	6.82%	\$212,291	\$148,630.71	No set %	not applicable
NV (0 AAAs)	\$325,009	\$2,619,674	12.41%	\$325,009	\$143,722 of IIIB and \$201,300 in Tob Settlement \$. Total: \$345,022	Have policy to distribute funds based on "essential services". Legal is "essential" service.	not applicable
RI (0 AAAs)	\$70,000	\$1,028,196	6.81%	\$213,312	usually right at \$70,000	No set %	not applicable
SD (0 AAAs)	\$120,187	\$2,128,915	5.65%	\$160,249	\$120,187 IIIB funds for legal in 2011	2.00%	not applicable
WY (0 AAAs)	\$56,731	\$1,593,301	3.56%	\$89,204	\$88,300	The figure is non-mandated funding, but usually (and most recently) equals a 5% minimum.	not applicable
US TOTAL	\$26,063,273	\$316,001,214		\$48,773,655			



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