

**HANDBOOK ON DEVELOPING AND IMPLEMENTING  
UNIFORM STATEWIDE REPORTING SYSTEMS FOR  
OLDER AMERICANS ACT TITLE III-B LEGAL ASSISTANCE**



**DEVELOPED BY:**

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THE BORCHARD FOUNDATION CENTER ON LAW AND AGING**

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## FOREWORD: IMPORTANCE OF “TELLING THE STORY” OF LEGAL SERVICES

Legal assistance provided under Title III-B of the Older Americans Act (OAA) is one of the most critical of the III-B Supportive Services, as it impacts the most fundamental aspects of the lives of America’s most vulnerable elders. Every day, as a result of legal services, older Americans are: saved from unnecessary guardianships; saved from loss of income when social security and/or SSI benefits that had been denied or terminated are approved or reinstated; saved from the loss of their homes through eviction or foreclosure; given critical medical treatment when benefits that had been denied are obtained or reinstated; saved from impoverishment due to financial exploitation; and assisted in a myriad of other life/welfare-threatening situations. For these reasons, legal assistance services have long been a priority service under the OAA, meaning that every AAA must fund legal services.

Despite Congress’ recognition of the importance of these services and their ability to protect vulnerable elderly Americans, and in spite of the fact that in 2011, over 51 million federal, state and local dollars were spent providing almost 850,000 hours of legal assistance services to older Americans,<sup>1</sup> we do not have meaningful information about them, e.g., the types of older persons being served or types of services actually being provided. At the national level, we have no system to gather meaningful information that would allow us to “tell the story.” of legal services and its impact. That is, we have no national data on:

- characteristics of older persons benefitting from legal services – are legal services reaching the target groups required by the OAA?
- the types of legal issues being addressed—do they reflect the most critical needs of the target populations as outlined in the OAA, e.g. income, housing, health care, elder abuse, neglect, and exploitation?
- the impact that legal services have on the lives and well being of the target populations

There is some reporting being done at the state level, but there are no guidelines on what state reporting systems should be capturing, and no guidelines on how a state could go about developing and implementing uniform statewide reporting.

The absence of good information not only hampers informed policy making and evaluation of the effectiveness of these services, but all too often, prevents adequate appreciation of the value of those services by those outside the legal services community, including Area Agencies on Aging (AAAs), State Units on Aging (SUAs), federal policy makers and others responsible – directly or indirectly -- for funding these services. Unlike the easily recognized need for, and value of, a home-delivered meal or ride to a doctor’s office, recognition of the need and value of, legal services is more difficult. Therefore, legal services providers, more than providers of non-legal services, must communicate with AAAs, SUAs, funders and policy makers at all levels and provide them with reliable and persuasive information about what they do. The collection and dissemination of information that demonstrates the concrete impact of protecting a right or accessing a deserved benefit on the daily life of individual older persons removes the level of

abstraction that interferes with a true appreciation of the value and impact of legal services. The need to be able to “tell the story” of legal services and make its value more tangible to funders and policy makers is especially pressing in a world of ever-decreasing public resources, if such services are to be adequately funded in the future.

Thus The Center for Social Gerontology (TCSG) is extremely grateful to the Borchard Foundation Center on Law and Aging for providing funding for TCSG to begin to address these important gaps. We undertook this project:

- To identify what is/is not happening with statewide reporting in states across the country by conducting a survey of all State Legal Services Developers (LSDs);
- To analyze those survey results; and
- Based on the survey results, coupled with TCSG’s long history of assisting states in developing/implementing statewide reporting, develop written Guidelines for all states interested in developing/implementing such systems, or revisiting existing systems.

We are very pleased to present these Guidelines as part of this Handbook on developing and implementing uniform statewide reporting. We hope it will be helpful to state and area agencies, legal services providers, and the many others who are concerned about the state of legal services for our most vulnerable elders. We also hope this is an important step toward the ultimate goal of a meaningful and uniform reporting system at the national level.

## INTRODUCTION TO THE HANDBOOK

Things get done only if the data we gather can inform and inspire those in a position to make a difference.      – Mike Schmoker, *Results: The Key to Continuous School Improvement*

No data yet . . . . It is a capital mistake to theorize before you have all the evidence.  
--Sherlock Holmes, *A Study in Scarlet* (Sir Arthur Conan Doyle)

This Handbook was prepared to assist states in the critically important task of developing and implementing uniform statewide reporting on Older Americans Act (hereafter OAA) Title III-B legal assistance services.<sup>2</sup> Data from reporting can play a major role in increasing support for III-B legal services by demonstrating what legal services does and the very significant impact it has on the lives and well being of older persons, particularly the target populations specified in the OAA -- those in greatest social and economic need. It is hoped that this Handbook will lead to reporting systems that provide reliable and meaningful data/information that effectively demonstrates the value of legal assistance, without being overly burdensome and without violating client confidentiality.

**Caveats.** We recognize the wide variability among states in numbers and types of providers; funding levels; rural, urban and suburban make up of communities; Area Agency on Aging (hereafter AAA) and State Unit on Aging (hereafter SUA) staff resources; and client population demographics. Thus we are **not proposing a model reporting system here**. Rather we provide **general “Guidelines”** on which states can build and adapt to meet their needs and situations.

Further, we recognize that due to wide variations in funding levels and resources, implementing all ideas suggested here **would be beyond the capacity** of some states; suggestions should be evaluated selectively, in light of practical limitations.

**Perhaps most important**, before adopting/imposing any reporting requirements, state and area agencies and legal providers should carefully **analyze the purposes and expected uses of information**. The time and resources involved in collecting and compiling data must always be weighed against the value of the information and the extent to which it will be used. This analysis will involve examining each data element being considered for inclusion in the reporting system, in light of four overriding principles discussed in PART TWO, Sec. 1.C. below.

The Handbook is **divided into three parts**.

**PART ONE** presents **current reporting requirements** of the Older Americans Act (OAA) and the Administration on Aging/Administration for Community Living (hereafter AoA/ACL). Because any reporting system must include information/data called for in the OAA and related requirements of AoA/ACL, we begin with relevant OAA provisions and AoA/ACL reporting requirements generally and then as they apply specifically to legal services. PART ONE also includes brief background on TCSG’s work on reporting and lessons learned, and a brief discussion of our national survey on existing statewide reporting.

**PART TWO** is the most extensive part, and provides the actual *Guidelines for Developing and Implementing Uniform Statewide Reporting on III-B Legal Assistance Services*. The Guidelines are divided into **four Sections** covering: the value of reporting; the ten-step process recommended for developing a reporting system; guidance on the types of data to be reported; and the procedures for data reporting, analysis and use.

**PART THREE** provides several **Appendices** to facilitate the process of developing and implementing uniform statewide reporting.

**PART ONE**  
**CURRENT OAA AND AoA/ACL REPORTING REQUIREMENTS**  
**& BACKGROUND ON TCSG'S WORK ON LEGAL REPORTING**

As noted, because any reporting system must include data called for in the OAA and required by AoA/ACL, we begin with that discussion. We first describe OAA and AoA/ACL general reporting requirements and then move to requirements specific to legal services.

**A. OAA AND AoA/ACL GENERAL REPORTING REQUIREMENTS**

**A.1. OAA General Statutory Reporting Requirements.**

We trace the history of reporting requirements back to the OAA 1992 reauthorization when Congress expressed serious concerns about the lack of reliable data made available to it<sup>3</sup> by AoA.<sup>4</sup> Of particular concern to Congress was the unreliability of data on targeting OAA services. The House Committee Report on the 1992 Amendments stated:

*In particular, it is critical that limited resources be targeted to serve those . . . who are in greatest social and economic need, as mandated by the Act. Without reliable data on the clients being served and the nature of services provided, it is impossible to determine whether this mandate is being met.*<sup>5</sup>

At the same time however, Congress cautioned against burdensome reporting.

*The Commissioner<sup>6</sup> shall endeavor to ensure that the system . . . does not impose unnecessary burdens on network agencies. . . . it is the intention of the committee that data collection procedures will be streamlined and that consideration will be given to collecting only that data which serves a useful purpose for planning, monitoring, and evaluating programs and by methods that are not cumbersome . . .*<sup>7</sup>

The Act's reporting requirements today are much the same as in 1992. Current provisions describe broadly what statistical data AoA/ACL must collect for each fiscal year on services and activities carried out with OAA funds. That is --

- (A) with respect to each type of service or activity . . .
- (i) the aggregate amount of such funds expended to provide such service or activity;
  - (ii) the number of individuals who received such service or activity; and
  - (iii) the number of units of such service or activity provided;

. . .

- (C) the extent to which each area agency on aging . . . satisfied the requirements of paragraphs (2)<sup>8</sup> and (4)(A)<sup>9</sup> of Section 306(a).<sup>10</sup>

The Act further requires AoA/ACL to design and implement "uniform data collection procedures" to be used by State agencies.<sup>11</sup>

And the Act calls for AoA/ACL to submit to the President and Congress an annual report of activities carried out under the OAA. Among other things this report must include:

- statistical data collected under 42 U.S.C. §3012(a)(16)(see above);

- statistical data that reflects services and activities provided to individuals; and
- statistical data and an analysis of the effectiveness of state and area agencies in targeting services to elders with the greatest economic and greatest social need, with particular attention to low-income minority individuals, those residing in rural areas, low-income individuals, and frail individuals.<sup>12</sup>

### **A.2. AoA/ACL Response to General OAA Requirements: NAPIS/SPR**

In response to the provision in the 1992 Amendments, which called on AoA to “design and implement, uniform data collection procedures . . .,” AoA, developed new reporting guidelines for states, known as the **National Aging Program Information System** (hereafter **NAPIS**). Among the NAPIS components, the one that is relevant to legal assistance is the **State Program Report** (hereafter **SPR**). State Units on Aging (SUAs) are responsible for compiling the requested data, completing the SPR, and submitting it to AoA/ACL.

In response to changes in the 2000 amendments,<sup>13</sup> AoA/ACL revised the SPR, effective in FY 2005 (Oct. 1, 2004), and that SPR remains in effect in 2015. This current version of the SPR requires information on 17 types of services that are divided into two broad categories: **(1) registered services**<sup>14</sup> and **(2) non-registered services**.<sup>15</sup> (Legal services are non-registered. See discussion in Sec. B below.)

For registered services, the SPR collects substantial information on the older recipients of these services. For each registered service recipient, states must report demographic data<sup>16</sup> as well as unduplicated client counts for each individual registered service and for the registered services in the aggregate. This requires the AAAs/SUAs to maintain a *client registry* on persons receiving registered services.

## **B. OAA AND AoA/ACL REPORTING REQUIREMENTS SPECIFIC TO LEGAL SERVICES**

### **B.1. OAA Statutory Requirements Specific to Legal Services.**

With respect to legal assistance, given the confidentiality issues discussed below, only a limited number of the general OAA reporting requirements apply. The required information needs to come from legal providers and AAAs. The SUA must compile and submit it to AoA/ACL. It includes:

- number of individuals served;
- number of units of service provided;
- amount of funds expended for legal services and the extent to which each AAA provided an “adequate proportion” of III-B funds for legal assistance as a priority service as established by the SUA; and
- total expenditures for legal services (Title III-B and other).

### **B.2. OAA Protections of Confidentiality Re Legal Services Clients.**

It is important to note that throughout its concerns for more and better data, Congress has consistently recognized the importance of older individuals’ right to privacy and the need to maintain strict confidentiality in the area of legal assistance. Title III of the Act specifies that states, state agencies, and area agencies are prohibited from requiring a legal provider

to reveal information protected by “attorney-client privilege.”<sup>17</sup> A similar provision exists in Title VII. Legislative history makes it clear that Congress intended these provisions to protect anything that would reveal identifying information about legal services clients to the state or area agency:

*The Committee’s intent in including the new confidentiality provisions is to clarify that names, addresses and telephone numbers of clients served with Older Americans Act funds will remain privileged information. . . . Many older individuals might be hesitant to ask for legal advice and counsel they need if they thought others would have access to their identifying information.*<sup>18</sup>

Further, Congress recognized that in calling on AoA/ACL to develop uniform data collection procedures which include a “participant identification and description system”<sup>19</sup> care must be taken to protect recipients’ right to privacy. The legislative history accompanying the 1992 reauthorization notes:

*In designing a description and identification system for participants . . . , great care must be given to balancing the information acquired for program purposes, with the essential need to protect the right of privacy of individuals receiving services.*<sup>20</sup>

### **B.3. AoA/ACL Response to OAA Requirements Specific to Legal Services**

Given the OAA prohibition against violating legal services clients’ confidentiality and Congressional concern to protect privacy, AoA/ACL designed the SPR to protect both. As noted above, **legal assistance services are non-registered services**, which means legal services data is not included in a master client registry, and legal providers need not report any client-identifying information. The SPR asks only for data about individuals served by each type of non-registered service separately, thereby allowing service providers to aggregate data before sharing it and avoid revealing any identifying information.

Under the current SPR,<sup>21</sup> with respect to legal assistance there are three major data sets that providers must collect and report.<sup>22</sup> These are:

1. An estimate of unduplicated persons served for ALL non-registered services as a whole, not solely for legal services, and a total estimate of the unduplicated count of persons served, both for registered and unregistered services.<sup>23</sup> For unregistered services, there is no need to break this estimate down by client characteristics. Therefore, for legal assistance services, legal providers are not required to report demographic data on clients.<sup>24</sup>
2. A count of total service units provided during the year (1 hour = 1 unit). Total service units include not only service units paid for with III-B funds but also all service units provided to III-B eligible clients no matter the funding source.<sup>25</sup>
3. The amount of program income received. Because means testing is prohibited by the OAA and cost sharing is not allowed for legal assistance programs, the income for legal assistance would consist of voluntary contributions<sup>26</sup> or donations.<sup>27</sup>

### **C. BACKGROUND/HISTORY OF TCSG'S WORK ON LEGAL ASSISTANCE REPORTING**

The Center for Social Gerontology (TCSG) has served as a National Support Center in Law & Aging since 1985. This work has taken the form of technical assistance support through:

- the creation and dissemination of publications and newsletters;
- conducting presentations and workshops at state, regional and national conferences; and
- phone consultations, and visits to individual states to work with the SUA/legal services developer, AAA personnel, and legal assistance providers on specific legal assistance delivery issues.

Our work over the past 30 years has taught us that reporting issues can be a source of tension between providers and funders of legal assistance. These tensions often arise from a perception by funders that legal services providers are not forthcoming with information about the services they provide and that providers hide behind client confidentiality as an excuse for not providing this information. Providers on the other hand often regard AAAs as requiring unnecessary information focused on quantity rather than quality, as unable to understand the importance of protecting client confidentiality and as failing to appreciate the burdensome nature of the many reports they must make to many funders. Finally, III-B legal assistance providers may feel that funders do not sufficiently appreciate the value of legal services, which is why statewide (and national) reporting is so important.

### **D. TCSG'S NATIONAL SURVEY ON STATEWIDE REPORTING**

In anticipation of the creation of this Handbook and its Guidelines, and as part of the grant from the Borchard Foundation, we undertook a study of statewide reporting for III-B legal services nationally.<sup>28</sup> We surveyed 51 SUAs (all 50 states and DC) and discovered that of the 45 states that responded, 20 already had reporting systems meeting our definition of a uniform statewide reporting system. Another 3 states were in the process of implementing such a system. Twenty-two had no reporting system in place or in development. Nineteen of the 23 states with/developing systems reported that they had been able to develop those systems without any additional funding. We have incorporated our learning from the study throughout this Handbook.



**PART TWO**  
**GUIDELINES FOR DEVELOPING AND IMPLEMENTING**  
**UNIFORM STATEWIDE REPORTING ON III-B LEGAL ASSISTANCE**

**Introduction to the Guidelines**

The *Guidelines for Developing and Implementing Uniform Statewide Reporting* are presented in **four sections**:

**Section I** of the *Guidelines* discusses the value of reporting, the importance of using an inclusive/collaborative process, and concludes with four overriding principles that we believe should guide all your deliberations/decisions about the reporting system.

**Section II** outlines a ten-step process recommended by TCSG, followed by in-depth guidance on each of the ten steps.

**Section III** of the *Guidelines* provides guidance on the types of data that need to be collected, organized around five key purposes of reporting.

**Section IV** discusses the importance of developing written procedures, definitions and instructions to promote consistency and validity. We also explore considerations in data analysis (including the need to consider how best to allocate burdens of reporting and data analysis), and approaches to ensuring the data are used effectively.

**GUIDELINES: SECTION I**

**VALUE OF REPORTING, IMPORTANCE OF USING AN INCLUSIVE PROCESS &  
FOUR OVERRIDING PRINCIPLES TO GUIDE DELIBERATIONS/DECISIONS**

**Sec.I.A. Value of Reporting**

Based on The Center For Social Gerontology's (TCSG's) long experience working with states on legal services delivery issues, including work with a number of states to develop reporting systems, we believe firmly that concrete and meaningful reporting information is invaluable. Having the ability to evaluate concretely and report on legal services leads to better targeting, more effective services and demonstrated benefits that more than justify the resources expended to fund these services. It allows legal providers, AAAs and state legal services developers to provide a compelling story about legal services, and this can be a powerful tool for increasing understanding and support for legal services. Where high quality and meaningful legal services are provided, that story demonstrates that legal services for the elderly make a real and important difference in the lives of America's most vulnerable elders

**Sec.I.B. Importance of Using an Inclusive/Collaborative Process**

TCSG believes that the process used in developing statewide reporting is important. The process recommended below represents TCSG's current thinking on the best approach. It reflects learning from the many and varied experiences of the states with which we have

worked and incorporates suggestions and input of respondents to the National Survey of Statewide Reporting Practices for Older Americans Act III-B Legal Services. It has also benefited from input of an expert Advisory Committee of key stakeholders, including representatives of the National Association of Area Agencies on Aging (n4a), National Association of States United for Aging and Disabilities (NASUAD), legal services developers, Legal Services Corporation (LSC) staff, and legal services providers, as well as input from AoA/ACL staff.

We recommend a collaborative process that involves all key stakeholders expected to collect, administer and analyze data for the system – Developer/ SUA staff, AAA staff and legal providers. If they can come together and discuss what they feel are the most essential elements of a reporting system and weigh the burden of collecting/reporting certain data against the value of having that data, we believe the result will be substantially better than without that involvement, and that the stakeholders will be more likely to buy into/support the reporting system. Further, we recommend that there be one person to take the lead in planning and organizing the effort and bringing in the other stakeholders. Ideally this is the state Legal Services Developer (LSD).

#### **Sec.I.C. Four Overriding Principles to Guide Deliberations/Decisions**

In addition to using an inclusive process, we believe it is **essential, before adopting any reporting requirements**, that state and area agencies and legal providers critically analyze the goals for the reporting system and expected uses of information. The time and resources involved in collecting and compiling data must always be weighed against the value of the information and the extent to which it will be used. This analysis will involve examining each data element being considered for inclusion, in light of the four overriding principles discussed below. It is important to revisit these principles throughout the development process. They are inter-related and include:

**Principle 1.** Plan and have a clear understanding of how data will be used and **collect only data that can and will be effectively used**. From the start, it is very important to think carefully and realistically about how any data collected will be used. From our perspective, the worst-case scenario is if providers take time away from serving clients to collect and report data that is not going to be useful. To be effectively used, it needs to promote effective delivery of legal services as well as build support for, and understanding of, the value of these services.

**Principle 2.** **Balance the need** for, and meaningfulness of, data **against the burdens** of reporting it. Beyond collecting information required for the AoA/ACL's SPR, any additional reporting requirements need to be carefully considered in terms of how meaningful the data is when weighed against how burdensome it will be for providers to collect/report and for AAAs and SUAs to use effectively. This is especially true when considering data not currently reported to any other funder.

**Principle 3.** Build on what III-B providers already **collect for other funders, particularly Legal Services Corp (LSC)**. To minimize the burden of reporting, it is important to try and build on what III-B providers already collect for other funders, particularly LSC, as a large number of III-B providers also receive LSC funding.<sup>29</sup>

**Principle 4. Consider** how to **share the burden** of reporting among legal services providers (LSPs), AAAs, and the SUA/Developer. To a large extent the burdens of reporting, including the need to aggregate data before its submission, fall on the legal services providers. It is important to look for ways to shift the burden of aggregating or analyzing data, such that the SUA and AAAs share the burden. This will ensure that legal services providers can maximize precious resources to serve clients.

**GUIDELINES: SECTION II**  
**A RECOMMENDED TEN-STEP PROCESS**

The following discussion is organized around the ten-step process recommended by TCSG for developing/implementing uniform statewide reporting. We begin with a brief outline of the ten steps, followed by a more detailed discussion of each.

**Sec.II.A. Outline of the Ten Steps**

- Step 1 -- Undertake early planning that is critical to generating support;
- Step 2 -- Select & recruit Work Group members;
- Step 3 -- Conduct Work Group meeting(s) to establish purposes/goals, use of data, and brainstorm major content/elements of the system;
- Step 4 -- Draft descriptive outline of the reporting system, including purposes and intended uses of data; types of data to be collected; process for collecting/submitted/analyzing data; and terms to be defined;
- Step 5 -- Circulate draft outline to the Work Group for comment;
- Step 6 -- Draft components of the reporting system, including reporting forms, instructions and definitions, based on comments on the outline;
- Step 7 -- Circulate draft components for comment – first to the Work Group and then to the broad law and aging network and revise as needed;
- Step 8 -- Pilot the reporting system;
- Step 9 -- Review and revise based on findings of the pilot; and
- Step 10 -- Formally adopt and implement the system and provide necessary training.

While this process may seem arduous, those who have gone through it have found the process itself to be productive and rewarding, and the results gratifying.<sup>30</sup> By bringing all stakeholders together, you are more likely to get a reporting system that meets the needs of all participants in the legal delivery system. Additionally, the process is likely to help foster and strengthen lines of communication within the network and contribute to better relationships between participants at all levels.

**Sec.II.B. Step-by-Step Guidance**

Below we provide step-by-step guidance on each of the ten steps.

**Step 1 -- Critical Early Planning to Generate Support**

Careful advance planning is essential to effective development of a statewide reporting system. Ideally, the state legal services developer<sup>31</sup> (hereafter LSD) takes the lead on the early planning and throughout the process.

Step 1.a. Early Consideration of the Purposes of Uniform Reporting. TCSG recommends that as one of the first steps, the LSD (or other individual taking the lead) review the

purposes of statewide reporting and think about which purposes are most important to the particular state. Some of the most commonly recognized purposes include:

- to supply data required by law and other authorities, e.g. OAA, AoA/ ACL, state authorities;
- to demonstrate the extent to which limited legal resources are being used to serve elders with the greatest social and economic need;
- to demonstrate the extent to which programs are handling priority legal issues called for in the OAA and that reflect the most critical needs of the target populations;
- to show whether programs are providing the full range of legal services required under the OAA; and
- to demonstrate the value and impact of III-B services on the lives/well being of older persons in greatest need in order to increase support for legal services.

Step 1.b. Assess What Is/Is Not Already Being Captured and Reported. The early planning stage is the time for the LSD to learn what reporting is currently in place across the state, if not already known. This includes data being reported to AAAs, and what the SUA is reporting to AoA/ACL, as well as existing reporting required by other funders, e.g. LSC, bar foundations, Interest on Lawyers' Trust Accounts (IOLTA), or United Way. It is helpful to gather copies of existing reports, instructions, definitions, forms, etc. Knowing that many III-B providers are also funded by LSC, the LSD should look particularly at LSC reporting requirements so that data required by LSC can be incorporated into III-B reporting as much as possible. This exercise will also afford an opportunity to inform other funders of plans for III-B reporting and foster communication and cooperation.

Step 1.c. Preliminary Discussions to Garner Support. Early on, the LSD should talk with the State Director/other SUA staff, area agencies, and legal providers. At the state level, discussions should focus on getting support from SUA leadership and gaining general consensus on the process envisioned by the LSD. Inquiries should be made about whether other SUA staff, especially IT or data management staff, might be able to assist. Discussions with area agencies and legal providers--both program staff and data management staff--should be used to gather input/ gain support for the concepts and process envisioned, and provide an opportunity for them to express concerns that will need to be discussed later.

State and area agencies and legal providers will be more likely to support developing a reporting system if they see the benefits of such a system. Some of the most likely benefits include:

- It allows the SUA and AAAs to get complete data/information, consistent from one Planning and Service Area (PSA) to another, and from one report to the next.
- It can foster better relations and ease tensions linked to different AAAs requiring different reports; and ease the burden of providers who have contracts with a number of AAAs.
- In allowing for detailed analysis of data on client characteristics, types of cases handled, levels of service provided, it demonstrates the extent to which providers

are complying with OAA targeting and priority setting mandates and supports strategic planning for enhancing compliance.

- It allows providers to go beyond tallying numbers of clients and hours of service, and provides concrete evidence of the value and outcomes/impact the services have on the lives and well being of clients.
- More and better data, including data that demonstrate the value/ impact of legal services will make it easier for the SUA to report to the Governor and/or Legislature and the AAAs to report to their Boards and to county or other officials that support aging services, and could lead to increased support/funding.

Step 1.d. Assess the Need for an Outside Facilitator(s) and/or IT Consultant(s).

Outside Neutral Facilitator. Many states that have developed reporting systems have found it useful to have an outside neutral facilitator(s). This can be especially helpful in group discussions, particularly when the group is first convening or disagreements are anticipated. An outside facilitator(s) is often better able to hear what people are saying than someone who has been involved in the politics, history, etc. of the situation, and can help ensure that all voices are heard and that the system reflects the interests and concerns of all.<sup>32</sup>

The task of facilitator(s) is demanding and can be crucial to success. TCSG recommends co-facilitators if possible. This allows switching the lead, so that each has time to reflect on, and digest, what Work Group members are thinking, saying, and feeling. This is particularly important when a sensitive and long-standing problem or misunderstanding is being discussed. In selecting facilitator(s), consider both skills and knowledge. They must be skilled in guiding/keeping discussions on track without dominating. They cannot allow themselves to be drawn into debates, but rather must be able to listen to all sides, identify points of agreement and disagreement, clarify those points, and then try to help resolve disagreements – much like a mediator. Often resolving disagreements necessitates clarifying what is required by the OAA or regulations, thus the facilitator(s) must have expertise in these areas. It may also require clarifying for non-lawyers attorneys' Codes of Professional Responsibility, for example the requirement for attorneys to maintain the confidentiality of client identifying information. And they must be able to listen, understand, condense, and quickly capture in writing (on flip chart or computer), the consensus of the Work Group on purposes, elements and process of a statewide system.

IT Consultant. Because a reporting system will inevitably need to address difficult technology issues -- including data collection, data submission, and data analysis -- some states have found it useful to bring in an outside IT consultant. This is especially true where the technology expertise is not available in the aging or legal networks.<sup>33</sup> We recognize, however, that many states will not have funds to bring in an IT consultant, and do not want to discourage states from proceeding without that expertise.<sup>34</sup> While technology issues can be some of the most difficult practical issues, many states in our survey reported finding ways to set up a system without any outside technology help. These states made modifications to existing data management systems and relied on more basic technology, like emailing Excel spread sheets, or even using paper reports in

some instances. Many expressed the hope that improvements to their technology would be forthcoming.

## **Step 2 – Recruit/Select a Work Group**

Following the early planning, the next step is to put together a Work Group. The selection of appropriate representatives on the Work Group is crucial. The suggestions below are based on the experience of states that have used the inclusive Work Group approach.

In states where TCSG has facilitated Work Group meetings, they have tended to range in size from 15 to 25 people. Factors to consider in deciding on the size and make-up of your Work Group include:

- number of AAAs and providers in your state;
- variety of III-B delivery models (LSC offices, private attorneys, hotlines, law school clinics, etc.); and
- level of communication/coordination within the state -- among AAAs, among providers, and between and among the SUA, AAAs, and providers.

The larger the number of AAAs and providers, the more diverse the kinds of delivery models, and the less good communication there is within the law and aging networks, the larger the Work Group may need to be. When balancing these factors remember that the larger the group, the greater the need for coordination and requirement of time – time to build trust, to prepare and plan for meetings, and to allow all ideas/concerns to be heard.

We recommend that you not recruit by asking for volunteers. Rather, target and invite the people you determine and believe would be best in terms of having a thorough and balanced representation of viewpoints and concerns. Include both programmatic staff and staff knowledgeable about, or responsible for, collecting, submitting, and/or analyzing data.<sup>35</sup> The inclusion of other funders (e.g. LSC, IOLTA) may also be useful in coordinating the various systems.

Try to get strong, thoughtful people who would be likely leaders in supporting or opposing statewide reporting.<sup>36</sup> Through participating in developing the reporting system, Work Group members who come into it with a poor understanding of the value of legal services or negative opinions of reporting can become educated to the significant benefits that older persons receive through legal assistance and the role that meaningful reporting can play in documenting those benefits. Be sure to explain to Work Group members the importance of, and what will be involved in, the reporting development process so they will understand their participation involves a serious commitment of time and effort.

## **Step 3 – Conduct Work Group Meeting(s) to Establish Purposes of Reporting, Uses of Data, and Brainstorm Data/Information to Be Collected**

Work Group discussions are the heart of the development process. They will benefit greatly from the early planning work undertaken as Step 1.

We recommend, if possible, at least an initial two-day, in-person meeting. Following the initial meeting and assuming more time is needed, follow up meetings can occur not only in person but also via Skype, webinar and/or conference call. Detailed notes should be taken and major issues and ideas recorded on flip charts or computer. The goal for the initial

meeting(s) is that the group will have discussed and reached consensus on the broad parameters and key elements of the reporting system, including: a) its purposes; b) how data will be used; c) data/information that needs to be collected; d) the process for collection, and e) other issues such as instructions, definitions, frequency of reports, etc. Notes from the session(s) will be the basis for drafting an outline of the components of the reporting system.

**See Appendix A** for an outline of what we believe are key components of Work Group meeting agendas/discussions.

#### **Step 4. Draft Descriptive Outline of Components of the System**

After the Work Group meeting(s), a written outline should be created, broadly describing the components of the reporting system. This is a significant task and can be done by the Legal Services Developer working alone, using notes and flip charts from the meeting(s), or with the help of a small team of Work Group members. It should address: purposes of reporting, what data is to be collected, the process for collecting and submitting the data, terms to be defined, and the intended uses of the data by providers, AAAs and the SUA/ developer.

#### **Step 5 – Circulate Draft Outline to Work Group for Comment**

The outline should be circulated to the Work Group, with a request that they review it carefully and comment on such things as –

- items that don't reflect the consensus of the Work Group and should be deleted;
- items that don't accurately reflect the consensus of the Work Group and should be changed, and providing suggested language for the change;
- items omitted that need to be added; and
- additional comments, questions and concerns that will be helpful in moving to the next step.

Be sure to give a deadline for receipt of comments, typically 3-4 weeks.

#### **Step 6 – Draft Various Components of the Reporting System, and Circulate to the Work Group for Final Comment**

Once comments on the outline have been received and incorporated, the developer (possibly with a small team) should begin to fill in the outline to create key components of the system. These will include:

- the form(s) that will be used for reporting, indicating what client data, case types, levels of service, and other data/information will be collected;
- draft definitions of terms; and
- a draft set of instructions including timing for submission of reports, and where/to whom reports are to be submitted.

The draft components should be circulated to the Work Group for their reactions and suggestions, with a deadline of one month, or less. It should then be revised based on this input, resolving any conflicting suggestions, to the extent possible. Depending on the agreement with any outside consultants, it may be helpful to keep them involved throughout this process.



### **Step 7 – Broadly Circulate Final Draft of Forms, Instructions, Definitions, Etc. for Comment and Revise as Appropriate**

When the Work Group is satisfied with the draft components, they should be circulated to everyone in the aging and legal services network who will be affected by the system. In most cases this involves sending it to all AAA directors and their legal program managers, and the offices of all Title III-B providers, asking them to share it with both their programmatic and IT/data staff. It should include an explanation of the purposes of the reporting system, the process used to create it, and ways the data/information will be used to promote legal assistance to older persons, particularly those in greatest need. Review by outside consultants, other states' LSDs, and other funders may also be useful.

At this point, not every suggestion can be incorporated, and drafters need to remain focused on those issues that are most important to achieving the purposes and intended uses of the data/information, and most in keeping with the decisions of the Work Group. However, it is good practice to acknowledge all comments, and explain the reasons that the reporting system was drafted in a particular way.

### **Step 8 – Pilot the Reporting System**

Once you believe you have a good final draft, it is time to pilot the system. We recommend that it be piloted for more than one reporting cycle. The following are some questions to consider in selecting pilot sites.

- Do you want to test it with different kinds of providers -- large offices, small offices, private attorneys?
- Do you want to pilot it with large, tech savvy offices, as some states have done, with the idea that success and lessons learned in these offices can be used to provide support to other offices?
- Do you want to ask for volunteers?
- How will you assure that the pilot offices are adequately prepared/trained on collecting and submitting data?

The particulars of your own state will dictate how many and which offices are selected to pilot the system.

While legal providers are the primary group to pilot the system, it is also recommended that one or more AAAs be included. Providers should submit their data/reports to AAA(s) that agree to pilot, to see what questions/issues AAAs have with the form and/or content of the reports they receive.

### **Step 9 – Review and Revise Based on Findings of the Pilot**

As a result of the pilot, the LSD and other appropriate Work Group members should analyze all feedback. Feedback can be gathered in writing, through individual phone calls, or as a group in a conference call/meeting. If done as a group, we suggest including AAAs and providers to encourage collaboration and understanding of the issues each may be facing when working with the new system. Feedback should address such things as: the ease or difficulty provider staff encountered in collecting and reporting various types of data; the ease or difficulty AAA staff encountered in accessing and analyzing data; as well as the clarity of instructions and definitions. It is also important to solicit feedback from pilots

on the training they received in order to improve the training for all programs before the system is rolled out.

Once feedback is received and analyzed, it is time to make final revisions to the reporting forms, instructions and definitions (and software if necessary). Assuming there are no major changes at this point (*major* meaning substantive changes that alter agreements and decisions made by consensus of the Work Group), it should not be necessary to share changes with the Work Group or the larger stakeholder network.

**Step 10 – Formally Adopt and Implement the System, Including Providing Necessary Training.**

A critical first step in implementation is training both provider and AAA staff who will work with the system. This raises a question of whether the AAA and provider staff will be trained together. Although different aspects of training may apply to one group and not the other, joint training can lead to mutual understanding of what is involved at both ends. Training should include not only very specific information about the protocols for collecting, submitting and analyzing data but also background on the purposes of the system.

We recommend that Work Group members be involved in the training, to provide a first hand account of the process used to develop the system, and the rationales for decisions that were made. If the new reporting system will involve the use of new technology or changes to existing data management/case management systems, it is important to have that portion of the training handled by staff with a firm grasp of those technology issues. It is critical to capture and maintain a document of questions asked and answered during the training to share with the Work Group members, all legal providers and AAA staff. This ensures consistency and accuracy as these issues will likely arise in the future.

After training is completed, reporting can begin. States have differed in how they implement the reporting system. Most have issued the reporting system instructions as policy of the SUA, but some states have prescribed protocols, that must be followed when introducing a new system like reporting, which the SUA must follow. Each state needs to explore its rules on implementing new systems.

Some states have phased in the reporting system, either office by office over time, and/or by requiring providers to report only a few data sets at first and gradually increasing the required data. For example, a number of states have started by requiring statistics such as client demographics, types of legal issues handled and/or levels of service provided, and only later asked for outcome data or case narratives. Several states have had problems with client demographic data, particularly as it relates to “unduplicated” clients (discussed below) and are considering requiring case narratives and case closing data (i.e. types of legal issues and levels of service) at the start. Once problems with “unduplicated” client data are worked out, they will add that as required data.

We recommend that states need not wait until all problems in the system have been worked out. There is little downside to starting small and adding data sets as problems are solved and programs have time to adapt to the new data collection. This is a learning process for all concerned and is unlikely to be completely finalized before implementation.

**GUIDELINES: SECTION III**  
**GUIDANCE ON TYPES OF DATA TO COLLECT**

**Section III** of the Guidelines provides guidance on types of data to be collected/reported.

**Sec. III.A. Data to Collect--Organized Around Five Key Purposes of Reporting**

To set a framework/structure for the discussion of what data needs to be collected, we use *five key “purposes of reporting”*. Under each of the five, we discuss specific data you would need to collect in order to achieve that particular purpose. The five are:

***Purpose 1:*** *To capture information called for by AoA/ACL’s State Program Report (SPR);*

***Purpose 2.*** *To demonstrate the extent to which limited legal resources are being used to target and serve elders with the greatest social and economic need (Requires Client Demographic data);*

***Purpose 3.*** *To demonstrate the extent to which limited legal resources are being used to address the most critical needs of the target populations, particularly the priority issues set forth in the OAA (Requires Case Data on types of legal issues being addressed);*

***Purpose 4.*** *To show whether programs are providing the full range of legal services required under the OAA (Requires Case Data on levels of service being provided); and*

***Purpose 5.*** *To demonstrate the value/impact of III-B legal services on the lives/well being of older persons in greatest need in order to increase support for legal services. (Requires Narratives & Indicators of Impact)*

**Sec. III.B. Capture Data Required by AoA/ACL SPR** (to Achieve Purpose 1)

This was discussed in detail in PART ONE, A & B above, and is not repeated here. The three major data sets that legal providers must collect and report are:

1. An estimate of unduplicated persons served for ALL non-registered services as a whole, not solely for legal services, and a total estimate of the unduplicated count of persons served (see clarification in III.B.1. below), both for registered and unregistered services;<sup>37</sup>
2. A count of total units of service provided during the year (1 hour = 1 unit);<sup>38</sup>
3. The amount of program income received.<sup>39</sup>

**III.B.1. Important Distinction Between “Unduplicated Clients/ Unduplicated Persons Served” and “Unduplicated Cases”**

It is important to mention the need to **distinguish** between “**unduplicated clients/persons served**” for AoA/ACL reporting purposes, and “**unduplicated cases**” for LSC reporting purposes.

AoA/ACL's annual SPR requires an estimate of the aggregate number of unduplicated persons receiving unregistered services. To provide this aggregate, the SUA needs to know or estimate “the unduplicated count of persons served” by each of the unregistered services, including legal services. Although the SPR does not define unduplicated count, in the aging network, its accepted meaning is:

*The number of different individual clients who received legal assistance from the provider during a [y]ear. . . . [A] client is counted only once for the [y]ear, regardless of how many times the individual returned that year for assistance on either the same or different legal issues. . . . If an individual client carries over from one year to the next, that client should be counted and reported again as an unduplicated client in . . . the new [y]ear.<sup>40</sup>*

LSC, on the other hand, although requiring an account of unduplicated clients, focuses its reporting on the number of “unduplicated cases,” i.e. the number of different cases handled in the year, even if those cases involved the same client.

To avoid confusion statewide III-B reporting instructions, definitions and training should clearly articulate the difference between:

- “unduplicated clients/unduplicated persons served” for AoA/ACL SPR purposes (i.e. the number of *different individuals served, and counted only once in a year* regardless of how many cases on which they receive assistance), and
- “unduplicated cases/unduplicated count” for LSC purposes (i.e. the number of *different cases*, and the fact that the same client received service in more than one case is not an issue).

In other words, it is possible to have multiple cases serving the same client, and for AoA/ACL purposes, that client would be counted only once a year as unduplicated, but for LSC purposes, each of the different cases would be counted.<sup>41</sup>

### **Sec.III.C. Capture Client Demographic Data to Show Extent of Targeting** (to Achieve Purpose 2)

To be able to assess the extent of targeting, demographic data is needed on all III-B legal clients to determine the extent to which limited legal resources are being used to target and serve elders with greatest social and economic need as identified in the OAA.

#### **III.C.1. Which groups of elders are to be targeted?**

To be eligible for legal services provided under Title III-B, individuals must **be at least 60 years old**. Further and significantly, the definition of legal assistance services in the Act says that legal services are specifically for older individuals in social or economic need, i.e. it is not for all older persons.<sup>42</sup> Within the eligible client base, the OAA calls for State and Area Agencies to ensure that providers of services are targeting the following groups.

1. Older individuals with greatest economic need;<sup>43</sup>
2. Older individuals with greatest social need;<sup>44</sup>
3. Low-income minority individuals;<sup>45</sup>
4. Older individuals with limited English proficiency;<sup>46</sup>

5. Older individuals residing in rural areas;<sup>47</sup>
6. Low income minority individuals with limited English proficiency;<sup>48</sup> and
7. Older Individuals at risk for institutional placement.<sup>49</sup>

### **III.C.2. Cautionary Note Re Client Characteristics That Are Hard to Identify/Define**

An issue that has been problematic as TCSG has worked with states across the country is how to get data on client characteristics that are specified in the OAA as groups to be targeted, but are difficult to identify or define. Several examples are: “at risk for institutional placement,” “frail” and “homebound.” We recommend that you approach reporting on these hard-to-define characteristics with caution. Terms that require subjective interpretation and application, even where uniformly and specifically defined, may produce data of limited value, especially where those terms are being applied by many different individuals throughout the state. In some instances, if uniform interpretation of characteristics is unlikely, it may be best not to include such characteristics in your reporting system.

### **III.C.3. See Appendix B for Detailed Discussion/Definitions of Client Characteristics**

In order for the client demographic data you gather to be meaningful, it is important to have clear instructions and definitions of the various characteristics. A detailed examination of considerations and suggestions for reporting on specific target characteristics is found in Appendix B. This provides guidance for reporting on age, limited English proficiency, greatest social need, greatest economic need/low-income, minority status, rural residency, etc.

### **Sec.III.D. Introduction to Case Data & Recommendation to Use LSC System As a Model for III-B Case Data**

Introductory Note on Case Data. The first issue when thinking about case data is “**what can be counted as a case?**” This critically important issue is discussed in depth in Section IV.B.1.a. of these Guidelines under Definitions.

#### **III.D.1. Overall Recommendation: Adopt/Adapt LSC Reporting Codes**

We have mentioned several times the importance of building on data already being collected for other funders, most particularly Legal Services Corporation (LSC). To minimize the potential burden on III-B legal services providers, many of whom are already reporting to other funders using the LSC system,<sup>50</sup> **we recommend that states adopt or adapt the LSC codes and reporting procedures** for reporting on:

- the number of cases opened and/or closed,
- the type of legal problem at issue, (Purpose 3) and
- the level of service provided (Purpose 4).

Each of these, along with discussion of how the LSC system can be adopted/ adapted, is further discussed below.

**Sec. III.E. Capture Case Data/Problem Codes to Show Extent to Which the Most Critical Needs of Target Groups are Being Addressed** (to Achieve Purpose 3).

The OAA lists a number of key legal problems that reflect some of the most critical needs of target groups and that should be given priority by III-B legal programs in their use of limited resources. The Act specifies that priority be given “to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.”<sup>51</sup> Gathering data about the kinds of legal issues providers are handling is the most direct way to determine whether priority is being given to these legal issues.<sup>52</sup> As noted, we recommend adopting/adapting the LSC system to accomplish this.<sup>53</sup>

**The LSC System For Reporting Types of Legal Issues/Problems.**

The current LSC legal problem categories and codes are found in the LSC Case Service Report (CSR) Handbook (available at no cost at <http://grants.lsc.gov/resources/grants-latest-news/revised-csr-handbook-now-available> ) LSC has an established list of Main Legal Problem Codes (each of which has an assigned code number ranging from 01 to 99, and they are grouped into 10 broad categories:

- 01-09 = Consumer/Finance,
- 11-19 = Education,
- 21-29 = Employment,
- 30-39 = Family,
- 41-49 = Juvenile,
- 51-59 = Health,
- 61-69 = Housing,
- 71-79 = Income Maintenance,
- 81-89 = Individual Rights, and
- 91-99 = Miscellaneous

The full listing of Main Problem Codes is included here as Appendix C.

**III.E.1. Adopting or Adapting LSC Problem Codes for III-B Legal Reporting.**

We have found that adopting wholesale the LSC Problem Codes or making limited adaptations, is the least burdensome for providers. To insure that OAA priority issues are being addressed, states may want to break some of the LSC problem codes into elder-specific sub-codes. For example, adding sub-codes for such things as: elder abuse, neglect, and financial exploitation; defending older persons against the imposition of guardianship; and Medicare- and Medicaid-related issues. States may also consider eliminating one or more of the ten broad problem categories. For example, some states have omitted the categories of education and juvenile. Above all, whether you adapt the LSC codes or not, it is **extremely important to provide very specific instructions** about where to record issues that could fit into more than one LSC category or have no best category under the LSC system, and specifically what to record in any elder-specific sub-codes you may create.

**Sec. III.F. Capture Case Data/Closing Codes to Show the Full Range of Services Required by the OAA Is Being Provided** (to Achieve Purpose 4).

Under the OAA, legal assistance:

*(A) means legal advice and representation provided by an attorney to older individuals with economic or social needs; and*

*(B) includes –*

*(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and*

*(ii) counseling or representation by a nonlawyer where permitted by law.<sup>54</sup>*

This OAA definition requires that legal assistance include representation; provision of advice only is not sufficient to meet the definition.<sup>55</sup> To assess whether a program is meeting the OAA definition and providing the full range of services contemplated, it is critical to know the level of services provided to clients.<sup>56</sup> As with types of legal problems, we recommend that states use the LSC levels of service categories,<sup>57</sup> which LSC refers to as Case Closure Categories. These categories are broken into two broad groups: Limited Service and Extended Service.

Included in LSC Limited Service Case Closure Categories are:

- A. Counsel and Advice; and
- B. Limited Action.

Included in LSC Extended Service Case Closure Categories are:

- F. Negotiated Settlement Without Litigation;
- G. Negotiated Settlement With Litigation;
- H. Administrative Agency Decision;
- I. Court Decision -- divided into three sub-categories:
  - I.a. Uncontested Court Decisions,
  - I.b. Contested Court Decisions, and
  - I.c. Appeals;
- K. Other; and
- L. Extensive Service not resulting in Settlement or Court and Administrative Action.

Full definitions for the LSC case closure categories are found in Appendix D.

Note re referrals: Some states with which TCSG has worked have felt they need to capture information on referrals. This is somewhat complex, and we recommend that if you want referral information, you think about what specifically you want to learn and how the information will be used. For example, do you want referrals only for further legal services, or also referrals for non-legal, social support services? If referrals are for further legal services, do you need to know if referral was to a private attorney to whom the client will pay a fee or to another publicly funded legal services program? LSC case closing codes used to include a referral code – Referred After Legal Assessment – but that was eliminated effective January 2008.

**Sec.III.G. Capture Information on the Value/Impact of Legal Services on the Lives/Well Being of Elder Clients** (to Achieve Purpose 5)

Perhaps the most important means of “telling the story” of legal services is to **go beyond the numbers**. One of the more important ways of doing this is to gather information on the “beneficial impact”, “indicators of impact” or “outcomes”<sup>58</sup> for elders receiving legal services. Attention to “indicators of impact” increased after passage of the Government Performance and Results Act (GPRA) of 1993, which was to hold federal agencies accountable for achieving results and improving effectiveness and accountability.<sup>59</sup> No matter what the motivation, however, TCSG believes that such indicators can go a long way toward demonstrating the enormous impact legal services have on the lives and well-being of the nation’s most needy elders—both the numbers of people who benefit and the specific ways in which they benefit. Such information is also valuable in: educating others in the aging services network about the importance of legal services, maintaining or increasing funding for legal assistance, and demonstrating that dollars spent to fund legal assistance are recouped by clients and the community many times over. For all these reasons, TCSG recommends indicators of impact be included in Statewide III-B Reporting Systems -- if not at first, then down the road.

In considering what impact indicators to use, keep in mind that the focus should be on the benefit to the client, and the data must be meaningful, useful, and a valid indicator of that benefit.<sup>60</sup> Additionally, collecting information about the impact and calculating its benefit must not be unduly burdensome.

The most important step in the process is in choosing specific indicators of impact. They must be more than just the “results” or “products” of legal services, e.g. number of cases closed; they must represent real improvements in a client’s life – financial and personal independence/stability, etc. The underlying questions here are: “What are we trying to accomplish for vulnerable older clients?” and “How will we know if we are succeeding?” For example, assuming an important goal for III-B legal programs is to maintain or in some way increase clients’ income from public benefits, the impact indicator would be: *the number of clients whose income from public benefits was maintained or increased through legal services*.

Below, we discuss some of the most commonly used indicators of impact. These include:

- Dollar Value of Benefits Obtained or Saved for Clients;
- Savings for Clients by Not Having to Pay a Private Attorney/Law Firm;
- Cases Resulting in Beneficial Impact on Protecting Clients’ Life, Health, Homestead, Dignity or Independence; and
- Case Narratives to Help Tell the Story “Beyond the Numbers.”

**III.G.1. Dollar Value of Benefits Obtained or Saved for Clients**

An indicator of impact that is measurable, can be very powerful, and that is relatively easy to implement, is to have legal providers track and report the dollar value of benefits *obtained or saved for clients as a result of legal services rendered*. Generally, there are two types of monetary benefits: “one-time” and “ongoing” benefits.



- One Time Benefits include such things as the dollar value of a Medicare benefit gained for a service that had been denied.
- Ongoing benefits include such things as getting an SSI or social security benefit increased that had been reduced. Where the benefit is ongoing, we recommend that a standard length of time – one or two years -- be used to calculate the total benefit.<sup>61</sup>

Most reporting systems calculate only easily quantifiable benefits, e.g. the amount of a previously denied Medicare benefit. However, some more advanced reporting systems also calculate less readily quantified benefits, such as successful litigation of a contested will resulting in a client receiving an amount of money or a home of a given value that otherwise would not have been received.

Total Savings for Clients: Some more advanced reporting systems also include dollars clients were saved from having to pay as a result of legal services, e.g. claims for paying back overpayments of social security/SSI that legal services was able to have waived or reduced. And as above, some more advanced reporting systems capture less readily available savings amounts such as those derived from saving a public housing tenant from an unlawful rent increase.

### **III.G.2. Savings for Clients by Not Having to Pay a Private Attorney/Law Firm**

This typically is calculated for all hours for which a client would have had to pay an attorney for legal and related counseling hours (includes legal advice, administrative and judicial representation, casework and related hours), as well as hours on document preparation and hours spent if a document is contested. The value of the savings is calculated by either: 1) the billable hourly rate determined by a valuation of the going hourly rate charged in the legal provider's area; or 2) by assigning an hourly rate to each of the legal provider's staff members, and calculating accordingly. While this is easily calculated, and it may be applied in all cases, there are downsides to this measure. Although it may demonstrate that legal assistance services are a good value because services cost more on the open market, it does not show how the services benefitted the client. Many clients do not have the resources to go to a private attorney, so this method measures a cost-savings benefit that they would never have realized. It is also a measure that is hard to validate as the cost of legal assistance varies between communities, and can't be compared across different legal markets.

### **III.G.3. Cases Resulting in Beneficial Impact on Protecting Clients' Life, Health, Homestead, Dignity or Independence**

Not all problems handled by legal assistance programs have quantifiable monetary benefits. Many legal services outcomes, like successfully defending against guardianship, cannot be measured in dollars. These types of outcomes (which we refer to as "indicators of impact" because they are not precisely measurable and do call for some subjective judgment on the part of legal providers) can provide an extremely valuable indication of the overall benefits legal services has on the lives and well being of vulnerable older clients. This involves a simple tally of the numbers of cases in which clients achieved an important benefit, and it requires only the creation and definitions of benefit categories. Even for monetary benefits as described above, a tally of numbers of clients who received monetary

benefits because of legal services adds to the overall picture.

Examples of some Indicators of Impact used by various states include:

- Maintained or Improved Stability/Quality of Housing, e.g. prevented an eviction;
- Maintained or Increased Income Benefits (food stamps/SNAP; SS/SSI; Pension; etc.);
- Assisted Victims of Domestic/Elder Abuse, Neglect, and Exploitation in Achieving Safety/or Protecting Assets;
- Assisted Client to Maintain Maximum Autonomy/Control of their Lives and/or Finances, e.g. prevented an unnecessary/inappropriate guardianship;
- Provided Access to Health Care that Would Have Otherwise Been Denied.

#### **III.G.4. Case Narratives Help Tell the Story “Beyond the Numbers”**

Narrative reports in which programs describe certain important non-statistical information are valuable in and of themselves, and are also useful as supplements to indicators of impact data. They allow legal providers to transmit anecdotal information that can be of great value in “putting a face” on the impact of legal services. Brief descriptions of individual cases (with all client identifying information being eliminated), highlighting the type of problems addressed, the actions taken by legal assistance to resolve them, and the resulting benefits to the client can dramatically demonstrate the importance of legal assistance to needy older persons, oftentimes much more than pages of numerical data.

#### **Sec.III.H. Other Kinds of Reporting States May Wish to Consider.**

##### **III. H.1. Broad Impact Benefits:**

Another kind of “impact indicator” does not relate to individual clients/cases, but results in positively affecting more than an individual client. This includes law reform efforts and impact litigation that establish laws, regulations and/or precedents that have favorable impact on whole classes of older persons. Work in these areas, however, can be expensive and time-consuming, and there are LSC Regulations that limit these types of activities by programs receiving LSC funds, even if the activities are undertaken using non-LSC funds such as OAA funds.

##### **III.H.2. Outreach/Community Education/Training Benefits & Collaboration**

Some states have decided they need different types of information for non-case activities, such as outreach, community education, training and collaboration with other elder rights advocates such as LTC Ombudsmen, abuse prevention programs, etc. For outreach, community education and training, states typically ask for information on each event/training, including:

- Date(s) of the Event;
- Location of the Event (e.g. are they at locations where target populations are likely to be?);
- Approximate Number of Participants;
- Topics of the Presentation (e.g. do topics reflect the most serious legal needs/priority needs of the target populations?);
- Estimated Time Spent in Preparation, Travel and Presenting; and

PART TWO – GUIDELINES, SECTION III

- Listing of Materials Produced for Outreach, Training, and Community Education Events.

It is important to note that attendees at such outreach and education events are NOT to be counted as “clients.” The data discussed in this section are to be reported only in the section of the report on Outreach/Community Education, and Training.

Similarly, some states have set up their report forms to include a section where important collaborative efforts to enhance elder rights protections and legal services can be described. Such efforts can include collaboration with legal and/or non-legal elder rights advocates.

***GUIDELINES, SECTION IV***  
***INSTRUCTIONS, DEFINITIONS, TECHNOLOGY ISSUES, ANALYSIS & USE OF DATA***

**Introduction to Section IV.** Once the reporting forms are complete, and decisions made about such things as frequency of reports, due dates and what forms/data are to be submitted to which agencies, it is time to finalize some of the **most important components** of the system, including:

- IV.A. Finalizing Clear and Complete **Instructions**
- IV.B. Finalizing Clear and Complete **Definitions**
- IV.C. Managing **Technology** Issues and
- IV.D. **Analysis & Use** of Data

Without clear written instructions and definitions, there is significant likelihood that programs will interpret reporting elements differently and that data reported will not be consistent. Also, you will want someone at the SUA (most likely the LSD) who can respond to reporting questions and inform the entire network of how to handle potentially confusing reporting situations.

**Sec.IV.A. Finalizing Clear and Complete Instructions**

Instructions are typically broken into two parts:

- one providing instructions on submission of reports;
- the other providing step-by-step guidance for completing the Report Form

**IV.A.1 Instructions for Submission of Reports.**

This section of the instructions must address:

- Recipients Of Reports;
- Report Periods and Due Dates;
- Method Of Reporting;
- Coordination Of III-B Reporting Processes With Other Reporting Processes; and
- Methods for Assuring the Accuracy and Reliability of Data.

Prior to specific instructions, it is important to have a clear **overall instruction that the SUA, legal providers and AAAs have agreed that the statewide reporting system will satisfy all reporting requirements** and will be applied consistently throughout the state. This means that all III-B providers will report to the system at the same intervals and with the same data sets,<sup>62</sup> and all AAAs will agree that the protocols and data sets of the reporting system will govern all reporting and that they cannot ask for more frequent reporting or for more data than that required by the reporting system.<sup>63</sup>

- Instructions re Recipients of Reports: To whom do providers/AAAs submit data? This section of Instructions should set forth who submits reports to which agency(ies). Legal providers might submit reports to the AAA, and then the AAA submits them to the SUA. Or providers could report simultaneously to both AAAs and the SUA. Unless a good reason exists not to do so, we recommend that reports be sent to both AAAs and SUAs at the same time. If data is being entered onto a state managed database, the same end would be achieved by granting AAAs access to this database. No matter what system

you choose we suggest that it be simple and minimize the burden on providers.

- *Instructions re Report Periods and Due Dates. How often are providers required to report?* Reporting timeframes vary greatly between states responding to our survey. We recommend that this decision be made after examining how and when data will be used. That is, require data submission only as often as it is truly needed and will be used by AAAs and the SUA/developer. We recommend that you not determine reporting frequency based solely on the need for AAAs to get units of service on a monthly basis for billing purposes; abbreviated reports can be submitted by providers to meet this need.

Be sure to make clear in the Instructions whether report periods are linked to the calendar year, state's fiscal year or contract period. If it is the state's fiscal year or contract year, specify the beginning and end of the fiscal year, e.g. July 1 through June 30, October 1 through September 30.

Frequency will have been discussed in the Work Group, and comments will have been received from the broader group of stakeholders who were asked to comment on the draft components of the reporting system. An important consideration is the type(s) of case management systems used by providers. If providers have technologically nimble case management systems, more frequent report generation may not be overly burdensome. In states where the generation of reports requires more human calculation and interaction with the data and does not occur with the tap of a few keystrokes, more frequent reporting will be substantially more burdensome.

- *Method of Reporting: How are reports made? Can providers submit raw data or must they tally and analyze data into categories before submission?* Among states with existing statewide reporting systems, reports are submitted via emailed spreadsheets or paper reports, or entered directly by providers onto SUA data management systems. If a state does not have the ability to allow data to be submitted directly onto a database management system, it is likely that emails will be the default method of submission.

Of equal consideration when discussing how data is to be submitted is the substance of the data reported. Is the data submitted as collected, i.e., in its raw form, or is it first tabulated and categorized into a report rubric by the provider? The less manipulation of data required at the provider end, the less the burden on providers. For example, do providers submit raw zip code data to the SUA for analysis of which zip codes are rural, or does the provider analyze zip code data and tally rural and urban clients? Similarly, if the system collects data on the number of low-income clients who are also minority, determining that number requires cross-tabulation of data on minority and low-income clients. For purposes of protecting client confidentiality this may need to be done by the provider. However, if the reporting system allows providers to assign non-identifying numbers to clients, then data could be submitted to the SUA in its raw form and analysis could happen there.

We suggest that the reporting process be examined to determine how it can be simplified for providers, and the burden of analysis should be shared by the SUA as much as possible but in a manner that confidentiality is not compromised. The less providers must do, the more time they can devote to providing services to clients.

➤ *Coordination of III-B Data Processes with Processes of Other Funders.*

We discussed the need to coordinate reporting requirements with other funders when considering what data to collect. Similarly, when instituting the procedures for reporting, consider the procedures of other funders in an effort to ease the burden on providers. This might mean coordinating due dates with those of other funders or it might mean staggering due dates so that they do not fall at the same time.

- *Methods for Assuring the Accuracy and Reliability of Data.* We have already stressed the importance of having every provider report the same data at the same intervals to ensure uniformity and the importance of the development of written instructions and written definitions and the training of staff on the use of the reporting system to assure that data is reliable. A last component to insuring accuracy is the **implementation of procedures to check that data is free of errors**. Again we suggest that states implementing statewide reporting turn to the LSC Case Service Report Handbook for a model. The LSC Handbook provides that “[p]rograms shall institute procedures for ensuring management review of case service information for accuracy and completeness prior to its submission . . . .”<sup>64</sup> Similar requirements should be instituted with respect to statewide IIIB legal services reporting. LSC methods for quality control focus on ensuring that cases are being closed in a timely fashion and that they are reported only once.<sup>65</sup> A statewide reporting system for IIIB legal services might choose to review data and reports to ensure accuracy in additional areas, e.g. with respect to unduplicated client counts or with respect to client demographic characteristics. Review of data most prone to error or most critical to the goals of the reporting system should be a priority. Instructions should address the frequency with which reviews should be undertaken, how reviews should be conducted, and which data require review.

#### **IV.A.2. Finalizing Line-by-line Instructions for Completing the Report Form(s)**

Once the Report form(s) are final, it is extremely important to go line by line and develop complete and clear instructions on how to complete each aspect of the form. The instructions may need to be tweaked after piloting and/or in the beginning of implementation, as issues that require additional instruction come to light.

#### **Sec. IV.B. Clarifying Definitions & Explanations**

Clear definitions are essential to ensuring that different providers/AAAs define terms in the same way so that data is consistent and reliable across the state. We have found it useful to divide definitions into three sections:

- IV.B.1. General Definitions
- IV.B.2. Legal Problem Codes/Legal Issues Addressed – Definitions/ Explanations
- IV.B.3. Case Closing Codes/Level of Service Provided – Definitions/ Explanations

### IV.B.1. General Definitions

In the general definitions section, we suggest it is most important to define all key terms regarding what is/is not to be reported. Also define all general terms that are used in the reporting system, for which there might be different understanding of their meaning.

#### IV.B.1.a. Key Terms Regarding What Is/Is Not to Be Reported

Absolutely basic to a reporting system is to clearly distinguish what is or is not to be reported as a legal services case or legal services client. This means clearly defining terms such as: legal assistance; legal advice; legal information; etc. Below we provide suggested definitions for these key terms.<sup>66</sup>

1. **Case.** A service is defined as a “case” *only if* “legal assistance” (as defined below) is provided to an eligible client with a legal problem, or set of closely-related legal problems. If a client contacts the legal provider multiple times within the same calendar year about the same/a closely-related legal problem, it is only one “case”. (See definition of “closely-related legal problem” below). In the event that a client has more than one legal problem and the problems are different/NOT closely related to one another, and “legal assistance” is provided on each of the different legal problems, each legal problem is counted as a “case”. Report the total number of cases opened and total number of cases closed during the reporting period. *(Note: the provision of “non-case legal information” as defined below is not to be reported as a case.) Also Note: “Legal assistance” as used in these guidelines is synonymous with “legal services.”*
2. **Client.** A “client” is defined as a person who is: eligible to receive OAA-funded legal assistance and receives legal assistance as defined below. *(Note: We recommend that only one client be reported per case. We recognize that there are situations where you are working with a couple/partners, for example setting up durable powers of attorney and/or advance directives for health care for each person. In such situations, we recommend that you set up case files for each individual.)*
3. **Closely-Related Legal Problem.** The presumption is that legal assistance rendered to a client on related legal problems contemporaneously or within a brief time frame is counted as one case. However, this presumption is rebutted and two or more cases may be reported if the legal issues are sufficiently different, as evidenced by the presence of:
  - (A) Legal problems that fall into different legal problem categories such as Family and Housing;
  - (B) Legal problems that fall into different legal problem categories within either the Individual Rights or Miscellaneous legal problem categories;
  - (C) Legal problems that involve different potentially adverse parties, even if they are in the same legal problem category; or
  - (D) Legal problems that relate to substantially different underlying facts.
4. **Legal Advice.** Provision of legal “advice” is considered a “case” for reporting purposes. It means advice that applies the law to the unique facts of the client’s case and offers an approach tailored to the specific fact situation. The provision of legal “advice” creates an attorney-client relationship. The case is to be closed as “Counsel

and Advice.” Several kinds of legal advice may be provided:

- (A) Preventive advice to help clients avoid legal problems by advising them of appropriate steps to take;
- (B) Defensive advice regarding steps that might be taken in the face of threatened litigation or other adverse action;
- (C) Affirmative advice regarding how to proceed to assert a right or a claim.  
(ABA Standard 3.4-1 on representation limited to legal advice)

**5. Legal Assistance.** For reporting purposes, “legal assistance” includes the provision of legal “advice” but is broader. It means the provision of “advice” and assistance that meet(s) the criteria of one of the “closure categories” defined below. It creates an attorney-client relationship and is considered a “case” for reporting purposes. The provision of “legal assistance” is specific to the client’s unique circumstances, involves legal analysis of the specific fact situation, and involves applying legal judgment in interpreting the facts and in applying relevant law to them.

*(Note: Assistance that is not legal in nature, e.g. provision of a social service, referral for financial or other assistance, is not legal assistance.)*

**6. Legal Information/Non-Case Information/Technical Assistance.** Provision of legal “information” is not to be reported as a “case”, and a caller/individual receiving information is not to be reported as a “client” under these reporting guidelines. “Legal information” is general in nature, is not tailored to the unique facts of the individual’s situation, and does not involve applying legal judgment or recommending a specific course of action. Legal information does not advise the individual as to what steps to take in her/his specific situation, nor does it create an attorney-client relationship. It is aimed at helping recipients of information understand their rights and responsibilities and the appropriate procedures for redressing those rights/fulfilling those responsibilities. For example, providing only a pamphlet or brochure is legal “information” and not legal “advice”/“assistance.” Legal “advice” differs from legal “information” which is not considered a “case” for X State’s Reporting Purposes. *(2006 ABA Standards for the Provision of Civil Legal Aid, Standard 3.6) (Source: LSC 2008 Case Service Report Handbook, Pgs. 15-16. [www.lsc.gov](http://www.lsc.gov))*

***IV.B.1.b. Other Terms to Be Defined under General Definitions Include:***

- **Client Demographics.** All terms used in your system to report client demographics/characteristics must be clearly defined. For sample definitions of key demographic terms, **see Appendix B, Issues to Consider and Sample Definitions for Collecting Data on Targeting Factors.** Note particularly the discussion of “Rural” for a suggestion of categorizing rural vs. urban.

***Important Policy Note re Economic Need:*** The Older Americans Act prohibits using income and/or assets information (means testing) for determining eligibility for legal services. At the same time, it requires that services be targeted to low-income persons. When asking about income, it is very important to make clear that it is being asked only to allow legal service providers to assess whether it is serving the types of people called for in the Older Americans Act and that their response will not affect the legal or the other OAA



services they may receive. In addition, Legal Service Providers may explain that income information may also be used to identify services/ benefits/entitlements for which the client may be eligible but is not currently receiving. Further, it must be made clear that the older individual can decline to answer questions related to income.

- Terms and definitions related to the aging network, e.g. Area Agency on Aging (AAA), Planning and Service Area (PSA,) State Unit on Aging (SUA), etc. **See Appendix E** for sample definitions.
- “Unduplicated Client Count” and “Unit of Service” These have been discussed above. We repeat them here only because it is important to include their definitions under General Definitions.

Unit of Service typically means one hour of “legal assistance” as defined. Generally, this is time spent on casework. However, some states specifically include or exclude certain related activities such as community legal education, outreach, etc.

Unduplicated Client Count. See Section III.B.1. for definition and an important distinction between “unduplicated clients/unduplicated persons served” and “unduplicated cases.”

#### **IV.B.2. Legal Problem Codes/Legal Issues Addressed – Definitions/ Explanations**

As discussed above, it is important to capture legal problem codes in order to know the types of legal issues being addressed in cases by legal providers. And we recommend adopting/adapting the current Legal Services Corporation (LSC) main problem codes for this purpose. Each time the provider closes a “case” (as defined), the “case” is to be assigned a numeric legal problem code. **See Appendix C** for a complete listing of LSC Problem Codes as of June 2015, LSC Legal Problem Categories and Codes. **See also** the discussion at **PART TWO, Section III.E.** re legal problem codes and adapting LSC problem codes.

#### **IV.B.3. Case Closing Codes/Level of Service Provided – Definitions/ Explanations**

In addition to assigning a numeric legal problem code each time a case is closed (as defined) the legal provider must assign a Case Closure Category (a letter indicating level of service provided). As discussed above, we recommend adopting the LSC Case Closure Codes and definitions. The Case Closure Category selected for each closed case should reflect the **highest level of legal assistance provided prior to closure**. LSC includes:

- Two Limited Service Closure Categories – Counsel and Advice Only (LSC Code A); and Limited Action (Brief Service) (LSC Code B); and
- Six Extended Service Closure Categories – Negotiated Settlement without Litigation (LSC Code F); Negotiated Settlement with Litigation (LSC Code G); Administrative Agency Decision (LSC Code H); Court Decision (LSC Codes I.A., I.B., and I.C.); Other (LSC Code K); and Extensive Service (not resulting in settlement or Court or Administrative action) (LSC Code L).

See **Appendix D** for a complete listing of LSC Case Closure (level of service) Categories and Definitions. **See also** the discussion at **PART TWO, Section III.F.**

### **Sec. IV.C. Managing Technology Issues**

This component of designing and implementing a statewide reporting system is often the most daunting. There are concerns that new technology will be needed to implement a reporting system and concerns that the technology needed, and the know-how to implement it, are either not available or unaffordable. These legitimate concerns need not be insurmountable obstacles. The topic of technology issues in the development and implementation of reporting systems is a big one and in many ways too state specific for us to provide explicit advice. However, we make the following general observations.

Technology issues may be more or less complicated depending on the types of providers in your statewide delivery network and the sophistication of their case management systems. Our experience has been that reporting is most easily accomplished where many providers are also LSC providers or non-profit legal aid programs. Such offices often already have reporting mandates to other funders and good technologies in place. Accordingly, they may be able to implement the changes needed to collect additional IIB reporting system information without unduly taking away from the work of serving clients. Solo practitioners or smaller programs may have more trouble adapting to new reporting requirements and new technologies.

It is critical to have a good understanding of the software already being used by legal assistance providers and when at all possible to work within their existing case management systems, especially where providers are also reporting to other funders. Furthermore, someone from the IT departments of the SUA, AAA and/or provider network should be at Work Group meetings to address, at least in a basic way, some of the technology questions that may arise. Many of these questions will need to be addressed in greater detail after the initial task force meeting.

The nature of the technology issues will crystalize as the project moves from the initial phases of development into the implementation phase and often workarounds to technology dilemmas can be found. Many states with existing statewide IIB reporting systems have implemented their statewide reporting systems without the addition of new technology. Reports are made on Excel spreadsheets and LSDs are analyzing data using Excel and creating reports using PowerPoint. We do not mean to say that these methods are preferred or optimal, only that systems can be put in place with minimal technology changes, with the hope that the future will bring greater technological efficiencies.

Do not assume that technology issues should drive decision-making in the development of the reporting system, at the expense of identified goals. Although it is important to consider the burden to providers when imposing additional reporting requirements, it is also important to collect the data that you need. As one developer reported, "I let the technology piece and my concerns for overburdening providers drive the development of the system. Sometimes you need to decide what you want and leave it up to the providers to figure out how to get it to you."

In short, do not forego or abandon the development of a reporting system because of concerns about the absence of, or need for better technologies. If necessary, start small and allow the system to develop into something larger over time.

#### **Sec.IV.D. Analysis and Use of Data**

For data to be used effectively there must be the capacity to analyze it and it must be available to those in a position to learn from it and to act upon it.

##### **IV.D.1. Capacity for Data Analysis**

As we have stressed throughout this Handbook it is important to have a clear purpose for how reporting data will be used. This includes taking a serious look at what will be required to analyze the data so that it is meaningful and can be used to achieve the purposes for which it was collected. To permit the necessary analysis may require the purchase of additional software, training staff and/or the dedication of staff time to analysis of the data. If these options are required but not affordable at the moment, the state must weigh other options. Are there other less costly methods for obtaining meaningful analysis? Should reporting be phased in, with the state waiting to collect some of the data until after the capacity to analyze it has been realized? We do not recommend that implementation of the entire system be put on hold. Some data, even in its raw form will be useful to the purposes identified.

##### **IV.D.2. Data Availability to All Stakeholders -- Providers, AAAs and the SUA**

We recommend that all segments of the law and aging network have the ability to access and analyze the data sets that are collected through the statewide reporting system. A forward thinking system will contemplate ways that not only funders and overseeing agencies, but also providers might benefit from access to the data. Consider the goals of the reporting system and how all stakeholders might use the data to help achieve those goals.

##### **IV.D.3. Effective Use of Data**

As we stressed at the beginning of the Handbook and articulated in Principle 1, reporting should be designed around a clear understanding of how data will be used. Be sure when analyzing data and considering its effective use that you return to those goals first set out at the beginning of the development process. **We recommend at a minimum that the SUA/LSD develop an annual report based on the data gathered.** This report should provide information that tells the story of what legal services is doing. This includes reporting on the kinds of data highlighted in III.A of the Guidelines.

This report should be disseminated to all stakeholders – providers, SUA staff, AAAs -- and those responsible for funding and making decisions that affect services provided by the law and aging networks, like state legislatures, bar foundations, AAA Councils, etc. In addition this information can be shared with agencies outside the current funding network for the purposes of soliciting expanded funding.



**PART THREE -- APPENDICES**

**Appendix A**

**Outline of Key Components of Work Group Meeting Agendas/Discussions  
Recommended by The Center for Social Gerontology**

Introduction/Charge to the Group/Road Map and Self-Introductions. It is helpful to begin with a welcome and brief introduction/reminder of why everyone is there. This should highlight the potential value of statewide reporting, and set the tone for the Work Group. It should include a brief overview/road map of what the work will involve. Self-introductions should occur early in the meeting. When doing self-introductions it can be useful to ask participants to highlight their experience, successes, or concerns with legal services reporting.

Overview of OAA/AoA Reporting Requirements, Including Confidentiality. We suggest that early in the initial meeting, the facilitator, or some knowledgeable person, provide an overview of the legal assistance reporting provisions in the OAA and what AoA/ACL requires in the State Program Report (SPR). This provides a framework for the core data that must be captured in any reporting system. It is also useful to discuss lawyers' ethical duties to the client and methods for collecting meaningful data without violating client confidentiality, as well as OAA legislative history regarding the need for providers to keep all client-identifying information confidential. See PART ONE B.1.b. on confidentiality.

Overview of Existing Reporting Requirements by Other Funders, especially LSC. Because an overriding issue is minimizing the burden of additional reporting requirements on III-B providers, it is important that everyone understand other reporting requirements such as those for programs also funded by LSC, so that efforts can be made throughout to build on what III-B providers are already collecting/reporting to others. If resources permit, this information could be compiled into a written outline prior to the Work Group meeting.

Establish Purposes of Statewide Reporting and How Data/Information Will Be Used. As discussed in Part Two, Sec. I.C. and II.B, one of the most crucial elements of Work Group meetings is early discussion and consensus on purposes of having statewide reporting. This should build on the purposes identified in the early planning stage. It requires thinking carefully about how you will use the reported data/information. Once established, the purposes/uses should serve as the *litmus test* or *touchstone* throughout the process in all decisions about what data/information is to be collected and how it will be used.

Brainstorm Data/Information to Be Collected, Process for Collecting, Submitting and Analyzing Data, and Key Terms that Will Need to Be Defined. Having established purposes and uses of the data to be reported, the Work Group can begin brainstorming what information needs to be collected, and how it will be collected and submitted. It is important to examine each data set and process being considered with an eye to minimizing the burden of reporting. Brainstorming will consume a major portion of

Work Group meeting time. We suggest that several people be assigned in advance to take detailed notes. Taking notes on computer is good, because it allows you to produce an immediate report on the discussions and decisions reached, and serves as the basis for a descriptive outline of the reporting system. We suggest that facilitators also record discussion highlights on flip charts so that all may follow along.

As noted, issues can become complicated when discussing specific data to collect and how it will be collected. It is important not to get bogged down on the details of any one issue. It can be helpful to set up a “parking lot” where you write down questions to be explored later as a way of keeping the process moving without forgetting to return to the more difficult issues.

Develop a Plan of Next Steps. Sufficient time should be left at the end of each meeting to plan next steps, and should address such things as:

- Timeline for subsequent meetings (in-person or via conference call) and activities;
- Responsibilities for activities to be completed, e.g. compiling meeting notes, drafting a descriptive outline of the system, investigating and reporting back on questions;
- Process to be used for review and comment on draft of reporting system; and
- List of questions/issues still to be resolved/discussed in the future.

## **Appendix B**

### ***Collecting Data on Client Characteristics to Ensure Services are Targeted to Those in Greatest Need: Recommendations and Considerations***

Assuring that finite resources are targeted to clients in greatest need is a requirement of the OAA. As discussed in PART TWO, Section III.C collecting data on client characteristics to see whether targeting is occurring achieves Purpose 2 of a statewide reporting system. Target groups include older individuals in greatest economic and social need, low-income minority individuals, individuals with limited English proficiency, individuals living in rural locations, and low-income minority individuals with limited English proficiency.

Below we examine issues to consider regarding key targeting factors. It is important to remember that for all the characteristics discussed below, there needs to be a place to reflect “client declined to answer” and/or “unknown.”

#### **Age**

Age is a critical determinant of eligibility for Title III-B legal services. As such, a program is minimally required to determine that a client is at least 60 years of age.<sup>67</sup> However, as an indicator of potential social need or vulnerability a state may want to collect more detailed data about clients’ age ranges, e.g. looking at the number of clients who are “young old” (65-75) as opposed to those who are “old-old” (age 85+). An important factor to consider in determining age ranges for your state’s reporting system will be determining if age ranges are being captured for other funders and could be adopted for III-B reporting.

#### **Ethnicity**

Ethnicity is to be designated as: “Hispanic or Latino Origin,” “Not of Hispanic or Latino Origin,” or “Unknown/Declined to Answer.” Ethnicity represents social groups with a shared history, sense of identity, geographical and cultural roots that may occur despite racial difference. (See also definition of Race below.)

#### **Greatest Economic Need/Low-Income**

The OAA defines greatest economic need as the need resulting from an income level at or below the poverty line.<sup>68</sup> If the III-B legal providers in your state are also LSC providers, they will be well versed in determining economic need, as they are required to collect this data to determine eligibility for LSC services. In states with many III-B providers who are also LSC providers, it will make the most sense to use the LSC figures as guidelines. In states where III-B providers are not affiliated with LSC offices, using LSC’s ready-made definitions may also make sense. For most statewide III-B reporting systems, data is categorized by income ranges rather than simply categorizing clients as either economically needy or not.

As noted above, when collecting data on economic need, it is important to remember that the OAA prohibits means testing, that is III-B providers are not allowed to use a client’s income/resources to deny III-B services to older persons.<sup>69</sup> For this reason, it is important to assure clients that they can decline to answer and explain that the information is being collected only for statistical purposes and not as a means of determining eligibility.<sup>70</sup>

### **Greatest Social Need**

The OAA has a broad definition of Greatest Social Need focusing on a host of non-economic factors. It is defined as

*... 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.<sup>71</sup>*

Many of these factors are also, by themselves, singled out as characteristics of persons to be targeted, e.g. racial/ethnic status would include low-income minority persons, language barriers would include LEP, and geographic isolation would include many rural elders.

As noted in Section III.C.2. above, a number of the terms used in the OAA to describe greatest social need are not easily defined and difficult to apply uniformly. For this reason we recommend that you think carefully about the value of trying to gather data on factors that are subject to varying interpretations, such as “physical and mental disabilities”, “social isolation”, “disabled,” “at-risk for institutional placement,” or “frail.”

### **Limited English Proficiency (LEP)**

This is a target group mentioned throughout the OAA. The problem comes in deciding how LEP will be defined<sup>72</sup> and even more problematic, how the definition will be systematically and consistently applied.<sup>73</sup> Because it is the least subjective method for determining LEP that we have found in working with various states, we recommend that the state consider a client to have LEP when **the client needs an interpreter**,<sup>74</sup> and that III-B legal programs include “needs interpreter” in their case management systems (CMS) to insure this definition will be used consistently. In our experience, many III-B providers who also receive other sources of funds, already have “needs interpreter” built into their CMSs.

### **Minority**

The OAA does NOT require that services be targeted to minority clients, but rather to low-income minority and low-income minority with limited English proficiency. This means that any effort to see if these specific populations are being served requires data on minority status, on income, and on English proficiency.<sup>75</sup>

Minority status is accorded to an individual by virtue of belonging to one or more of five broad racial categories, excluding Caucasian,<sup>76</sup> and/or by being a person of Hispanic or Latino origin.<sup>77</sup> Within this rubric, a state must decide how much information they need/will use on race/ethnicity of clients. Greater detail is helpful to outreach, targeting, and to providing services in a culturally sensitive manner, e.g., having access to appropriate translators, understanding cultural manners and norms.

### **Poverty Line**

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 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).



### **Race**

Race is typically designated as

- White/Caucasian
- Black/African American
- American Indian, Alaska Native, or Native Hawaiian
- Asian or Pacific Islander
- Multi-Racial/Some Other Race
- Unknown/Declined to Answer

(See also definition of Ethnicity above).

### **Rural.**

Rural is difficult to define because it has no universally accepted definition. Three common definitions come from the U.S. Census Bureau; the Office of Management and Budget (OMB); and the U.S. Department of Agriculture's Economic Research Service (USDA-ERS). However, each of these definitions has problems:

- The Census Bureau definition is based on census blocks making it difficult to apply.
- OMB and USDA-ERS definitions are county based, making them easy to apply but because the area defined is often so large, also less accurate.<sup>78</sup>

There is a **fourth system for defining the rural** or urban nature of a locality **that is both more accurate and easy to apply, and it is the system we recommend**. It is being used by III-B legal programs in a number of states and by some senior legal hotlines. The system and its definitions come from the Health Resource Services Administration's (HRSA's) Office of Rural Health Policy (ORHP).<sup>79</sup> It characterizes all of the nation's Census tracts into ten broad categories and then into subcategories to which it assigns codes, called Rural Urban Commuting Area (RUCA) Codes. These categories provide specific and detailed descriptions of each census tract's rural or urban characteristics. It is especially useful as it assigns every zip code a RUCA code. Accordingly for each zip code it is possible to describe the urban or rural nature of the zip code area based on its assigned RUCA code, which makes it easy to precisely classify a fairly small geographical area and to apply it easily by collecting zip codes from clients.<sup>80</sup> **We suggest that states consider this system** because of its ease of application, and relative precision in pinpointing rural areas.<sup>81</sup>

We also recognize that a number of states have regulations that define "rural" and "urban". In these states, you may be required to adopt the definition prescribed by state regulation. Or, even if not required, you may find it beneficial to do so because it allows the Title III-B data to be compared to other statewide data. Where there is no state regulation/requirement or obvious benefit to using a state definition, we recommend consideration of the use of RUCA codes.

**Appendix C**  
**Listing of LSC Problem Codes as of June 2015**  
**LSC Legal Problem Categories and Codes**

Following is a list of the LSC Main Problem Codes, each with an assigned a numeric Legal Problem Code ranging from 01 to 99 and grouped in ten broad Categories taken from Legal Services Corporation *Case Service Report Handbook, 2008 Edition, as amended 2011*, pages 24-28.

**CONSUMER/FINANCE**

- 01 – Bankruptcy/Debtor Relief
- 02 – Collection (Including Repossession/Deficiency/Garnishment)
- 03 – Contracts/Warranties
- 04 – Collection Practices/Creditor Harassment
- 05 – Predatory Lending Practices (Not Mortgages)
- 06 – Loans/Installment Purchase (Not Collections)
- 07 – Public Utilities
- 08 – Unfair and Deceptive Sales and Practices (Not Real Property)
- 09 – Other Consumer/Finance

**EDUCATION**

- 11 – Reserved
- 12 – Discipline (Including Expulsion and Suspension)
- 13 – Special Education/Learning Disabilities
- 14 – Access (Including Bilingual, Residency, Testing)
- 15 – Vocational Education
- 16 – Student Financial Aid
- 19 – Other Education

**EMPLOYMENT**

- 21 – Employment Discrimination
- 22 – Wage Claims and other FLSA (Fair Labor Standards Act) Issues
- 23 – EITC (Earned Income Tax Credit)
- 24 – Taxes (Not EITC)
- 25 – Employee Rights
- 26 – Agricultural Worker Issues (Not Wage Claims/FLSA Issues)
- 29 – Other Employment

**FAMILY**

- 30 – Adoption
- 31 – Custody/Visitation
- 32 – Divorce/Separation/Annulment
- 33 – Adult Guardian/Conservatorship
- 34 – Name Change
- 35 – Parental Rights Termination
- 36 – Paternity
- 37 – Domestic Abuse
- 38 – Support
- 39 – Other Family

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### JUVENILE

- 41 – Delinquent
- 42 – Neglected/Abused/Dependent
- 43 – Emancipation
- 44 – Minor Guardian/Conservatorship
- 49 – Other Juvenile

### HEALTH

- 51 – Medicaid
- 52 – Medicare
- 53 – Government Children’s Health Insurance Programs
- 54 – Home and Community Based Care
- 55 – Private Health Insurance
- 56 – Long Term Health Care Facilities
- 57 – State and Local Health
- 59 – Other Health

### HOUSING

- 61 – Federally Subsidized Housing
- 62 – Homeownership/Real Property (Not Foreclosure)
- 63 – Private Landlord/Tenant
- 64 – Public Housing
- 65 – Mobile Homes
- 66 – Housing Discrimination
- 67 – Mortgage Foreclosures (Not Predatory Lending/Practices)
- 68 – Mortgage Predatory Lending/Practices
- 69 – Other Housing

### INCOME MAINTENANCE

- 71 – TANF
- 72 – Social Security (Not SSDI)
- 73 – Food Stamps
- 74 – SSDI
- 75- SSI
- 76 – Unemployment Compensation
- 77 – Veterans Benefits
- 78 – State and Local Income Maintenance
- 79 – Other Income Maintenance

### INDIVIDUAL RIGHTS

- 81 – Immigration/Naturalization
- 82 – Mental Health
- 84 – Disability Rights
- 85 – Civil Rights
- 86 – Human Trafficking
- 89 – Other Individual Rights

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MISCELLANEOUS

91 – Legal Assistance to Non-Profit Organization or Group (Including Incorporation/Dissolution)

92 – Indian/Tribal Law

93 – Licenses (Drivers, Occupational, and Others)

94 – Torts

95 – Wills/Estates

96 – Advance Directives/Powers of Attorney

97 – Municipal Legal Needs

99 – Other Miscellaneous

## **Appendix D: LSC Case Closure (level of service) Categories and Definitions**

Below is the listing of case closure categories with the definition of each closure category taken from the Legal Services Corporation Case Service Report Handbook, 2008 Edition, as amended 2011, pages 20-23.

### **LIMITED SERVICE CASE CATEGORIES**

**A. Counsel and Advice Only (LSC/CSR Closure Category A):**

A case closed in which the program provided legal advice to an eligible client should be closed as Counsel and Advice (e.g., the advocate ascertained and reviewed relevant facts, exercise judgment in interpreting the particular facts presented by the client and in applying the relevant law to the facts presented, and counseled the client concerning his or her legal problem).

**B. Limited Action (LSC/CSR Closure Category B)**

A case closed in which the program took limited action(s) on behalf of an eligible client that addressed the client's legal problem that is not so complex or extended as to meet the requirements for CSR Category L should be closed as Limited Action. Examples include, communications by letter, telephone or other means to a third party; preparation of a simple legal document such as a routine will or power of attorney; or legal assistance to a *pro se* client that involves assistance with preparation of court or other legal documents.

### **EXTENDED SERVICE CLOSURE CATEGORY DEFINITIONS**

**F. Negotiated Settlement Without Litigation (LSC/CSR Closure Category F)**

A case closed in which the program negotiated and reached an actual settlement on behalf of a client without any court or administrative actions pending should be closed as Negotiated Settlement Without Litigation. This category should be reserved for cases in which the program conferred with another party so as to reach a resolution of the client's legal problem. This category includes settlements negotiated with an administrative agency prior to the filing of a formal administrative proceeding.

**G. Negotiated Settlement With Litigation (LSC/CSR Closure Category G)**

A case closed in which the program negotiated and reached an actual settlement on behalf of a client while a court or formal administrative action was pending should be closed as Negotiated Settlement With Litigation. This category should be reserved for cases in which the program conferred with another party so as to reach a resolution of the client's legal problem. Settlements of pending court or administrative actions should be closed in this category even if the court or administrative agency issues an order memorializing the settlement.

This category includes only: (1) cases in which an appearance has been entered before a court or administrative agency as counsel of record; or (2) cases in which the settlement was reached prior to the program's entry as counsel of record, provided that the program was actually representing the client in the negotiations (i.e. not assisting a *pro se* client) and provided that documentation of the settlement exists in the case file – preferably a copy of the actual settlement agreement, written confirmation of the settlement with the opposing party, or, if neither of these are available, a copy of a communication to the client outlining the terms of the settlement.

H. Administrative Agency Decision (LSC/CSR Closure Category H)

A case closed in which the program represented a client in an administrative agency action that resulted in a case-dispositive decision by the administrative agency or body, after a hearing or other formal administrative process (e.g., a decision by the hearings office of a welfare department), should be closed as an Administrative Agency Decision. This category does not include settlements made during the course of litigation that are then approved by the administrative agency, voluntary dismissals or the grant of a motion to withdraw as counsel. If the case is resolved informally through contacts with an administrative agency, but without any formal administrative agency action, the case should be closed as CSR Closure Categories B – Limited Action or F – Negotiated Settlement without Litigation, depending on the level of service.

I. Court Decision (LSC/CSR Closure Categories I.a., I.b., and I.c.)

A case closed in which the program represented a client in a court proceeding that resulted in a case dispositive decision made by the court should be closed as a Court Decision. This category is divided into the following three subcategories:

I.a. Uncontested Court Decisions (LSC/CSR Closure Category I.a). – either there is no adverse party or the adverse party does not contest the case;

I.b. Contested Court Decisions (LSC/CSR Closure Category I.b). – there is an adverse party and that party contests the case;

I.c. Appeals (LSC/CSR Closure Category I.c). to an appellate court taken from a decision of any court or tribunal (See 45 CFR §§ 1605.2 and 1605.3). This category does not include appeals or writs taken from administrative agency decision or lower trial court decision to a higher level trial court acting as an appellate court, whether they are on the record or *de novo* proceedings.

K. Other (LSC/CSR Case Closure Category K)

A case closed that does not fit any of the other CSR case closure categories should be closed as Other. Cases which fit two or more CSR categories may not be closed in this category, but should be closed in the category which best reflects the level of service provided.

L. Extensive Service (not resulting in Settlement or Court or Administrative Action) (LSC/CSR Closure Category L)

A case closed in which the program undertook extensive research, preparation of complex legal documents, extensive interaction with third parties on behalf of an eligible client, or extensive on-going assistance to clients who are proceeding *pro se* should be closed as Extensive Service. Some examples of extensive service include the preparation of complex advance directives, will, contracts, real estate documents or other legal documents, or the provision of extensive transactional work. This category also includes cases closed after extensive interaction or negotiations with another party which do not result in a negotiated settlement. In addition, cases closed after litigation is initiated in which the program appears as counsel of record that do not result in a negotiated settlement, administrative agency or court decision, or in which an order of withdrawal or voluntary dismissal is entered should be closed in this category.

## **Appendix E**

### **Sample General Definitions Not Provided Elsewhere in the Handbook**

The definitions provided here were taken primarily from statewide III-B reporting documents gathered during our survey (primarily from Georgia). Some states provided us with the definitions included in their Statewide Legal Assistance Standards, as those definitions are used as the definitions for their reporting system. The set of definitions included in legal assistance standards is often broader than those needed solely for purposes of a legal services reporting system. Consequently, some of the definitions included here may not be necessary solely when defining terms used by a statewide reporting system.

#### Note re Other Definitions:

- Definitions for current LSC case closure categories are found in Appendix D.
- Model definitions for Case, Client, Closely Related Legal Problem, Legal Advice, Legal Assistance, and Legal Information/Non-Case Information/Technical Assistance are found in PART TWO, Section IV.B.1 of the Handbook.
- Discussion and definitions of client demographic characteristics are in Appendix B.

### **Sample General Definitions Not Provided Elsewhere**

**Abuse** — the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish or mental illness (GA)

**Aging Network** - In Georgia, the network of the Georgia Department of Human Services Division of Aging Services, area agencies on aging, Title VI grantees, and the administration and organizations that are providers of direct services to older individuals; or are institutions of higher education and receive funding under the OAA. (Adapted from OAA) (GA)

**Area Agency on Aging**— a public or private nonprofit agency or organization designated by the Georgia Department of Human Services Division of Aging Services which in a designated planning and service area administers the OAA and other programs at the local level to assure that supportive and nutrition services are made available to older persons in communities where they live by funding, implementing, coordinating, expanding and maintaining needed services. (adapted from OAA) (GA)

**Attorney** - A person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction (state) where assistance is rendered. (GA)

**Elder Abuse** — Abuse of an individual sixty (60) years of age or older (GA) (SC)

**Elder Justice** - Used with respect to older individuals, collectively, means efforts to prevent, detect, treat, intervene in and respond to elder abuse, neglect, and exploitation and to protect older individuals with diminished capacity while maximizing their autonomy, and used with respect to an individual who is an older individual, means the recognition of the individual's rights including the right to be free of abuse, neglect, and exploitation. (GA)

**Exploitation** - The illegal or improper use of an individual, or that person's resources through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other illegal, unauthorized, or improper act or process of an individual including a caregiver or fiduciary, for monetary or personal benefit, profit or gain, that results in depriving an older individual of rightful access to or use of, benefits resources, belongings or assets. (From the State's law) (GA)

**Fee Generating Case** - Any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client from public funds or from an opposing party; excludes court appointments and Social Security/SSI cases and disability cases that have been rejected by 2-3 members of the private bar or other local lawyer referral program. (GA)

**Long-Term Care Facility** - Any skilled nursing facility as defined in the Social Security Act (42 U.S.C. 1395i-(a)) or other nursing facility as defined in the Social Security Act (42 U.S.C. 1396r (a)); a board and care facility (personal care home); and any other adult care home similar to one of these facilities or institutions. (GA)

**Neglect** - The failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual or self-neglect. (GA)

**Planning and Service Area (PSA)** -- PSAs are essentially the same as Area Agencies on Aging (AAAs) -- PSA means the geographical area served by a particular AAA, and is identified by a number. (e.g. California has PSA 1 through PSA 33). AAA means the private nonprofit or public agency serving as the area agency, and is identified by name. For example, "PSA 19" is the Los Angeles County AAA. (CA)

**Self Neglect** — An adult's inability, due to physical or mental impairment or diminished capacity to perform essential self care tasks including obtaining food, clothing, shelter and medical care; obtaining goods and services necessary to maintain physical health, mental health, or general safety; or managing one's own financial affairs (GA)

**State Agency/State Unit on Aging (SUA)**— The agency designated by a State to serve as the sole State agency to develop a state plan; administer the state plan, take responsibility for the planning, policy development, administration, coordination, priority setting and evaluation of all State activities related to the objectives of the OAA; to serve as an effective and visible advocate for older



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individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and dividing the State into distinct planning and service areas. (GA-In GA, it is the Division of Aging Services) (SC – In SC, this agency is the Lt. Governor’s Office on Aging.)

## ENDNOTES

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- <sup>1</sup> Admin. on Aging, Admin. for Community Living, U.S. Dep't of Health & Human Servs., 2011 Reports, 2011 National Tables, Tables 4b & 6b, available at [http://www.aoa.acl.gov/Program\\_Results/SPR/2011/Index.aspx](http://www.aoa.acl.gov/Program_Results/SPR/2011/Index.aspx).
- <sup>2</sup> The OAA is divided into seven titles. Title III is "Grants For State And Community Programs On Aging" and is divided into parts A-E. These are: Part A – General Provisions; Part B – Supportive Services and Senior Centers; Part C – Nutrition Services; Part D – Disease Prevention and Health Promotion Services; and Part E – National Family Caregiver Support Program. Legal assistance services are funded under Title III-B, Supportive Services.
- <sup>3</sup> S. REP. NO. 102-151, at 86 (1991).
- <sup>4</sup> The Administration on Aging (AoA) was created in 1965 and charged with coordinating and overseeing activities under the newly enacted OAA. It was within what was then called the Dept. of Health, Education and Welfare. In 2012, AoA, the Office on Disability, and Administration on Developmental Disabilities became part of a new Administration for Community Living (ACL) in the U.S. Dept. of Health and Human Services. (Throughout this Handbook, we will refer to the agency as AoA/ACL).
- <sup>5</sup> H. REP. NO. 102-199, at 44 (1991).
- <sup>6</sup> In the OAA Technical Amendments of 1993, the position of "Commissioner on Aging" was elevated to Assistant Secretary for Aging." H.R. 3161, 103rd Cong. (1993) (enacted), <https://www.govtrack.us/congress/bills/103/hr3161/text>.
- <sup>7</sup> H. REP. NO. 102-199, at 44 (1991) (emphasis added).
- <sup>8</sup> 42 U.S.C. § 3012(a)(16)(C) (2012) (incorporating by reference 42 U.S.C. § 3026(a)(2) (2012) requiring each AAA plan to ensure an adequate proportion of III-B funds are expended for legal services and the other two priority services).
- <sup>9</sup> 42 U.S.C. § 3012(a)(16)(C) (2012) (incorporating by reference 42 U.S.C. § 3026 (a)(4)(A) (2012), requiring each AAA area plan to ensure that services are targeted to those with the greatest economic and social need).
- <sup>10</sup> 42 U.S.C. § 3012(a)(16) (2012).
- <sup>11</sup> The procedures are to include: 1) uniform definitions and nomenclature; 2) standardized data collection procedures; 3) a participant identification and description system; 4) procedures for collecting information on services needed by older individuals, including services that would permit them to receive long-term care in home and community based settings; and 5) procedures for assessing unmet needs for services under the OAA. 42 U.S.C. § 3012(a)(26) (2012).
- <sup>12</sup> 42 U.S.C. § 3018(a) (2012).
- <sup>13</sup> The 2000 Amendments added a new Title III E, National Family Caregiver Support Program and an accompanying need for data on caregiver services. They also added the instruction to AoA/ACL to develop "performance measures" to comply with the Government Performance Results Act (GPRA). *Reporting Requirements For Title III And VII Of The Older Americans Act (not including LTC Ombudsman Program) for FY '10 and Subsequent Years*, ADMIN. ON AGING, ADMIN. FOR COMMUNITY LIVING, U.S. DEP'T OF HEALTH & HUMAN SERVS., 2 (May 31, 2013), [http://www.aoa.acl.gov/Program\\_Results/docs/SPR\\_Form\\_2013.pdf](http://www.aoa.acl.gov/Program_Results/docs/SPR_Form_2013.pdf) [hereinafter *Reporting Requirements*]. Note: Although some AAAs do fund legal services as a III E caregiver service, we do not address III E reporting in this Handbook.
- <sup>14</sup> Registered services are in two clusters. The six services in Cluster One are: personal care; homemaker; chore; home delivered meals (including a subcategory for NSIP home delivered meals); adult day care/health; and case management. The three in Cluster Two are: assisted transportation; congregate meals (including a subcategory for NSIP congregate meals); and nutrition counseling. *Reporting Requirements, supra* note 13, at 9.
- <sup>15</sup> The eight non-registered services are: transportation; legal assistance; nutrition education; information & assistance; outreach; other services; health promotion & disease prevention; and self-directed care. *Id.* at 9-10.
- <sup>16</sup> The demographic data includes age, poverty status, gender, whether the client lives in a rural area, whether the client lives alone, ethnicity and race. *Id.* at 4-8.
- <sup>17</sup> 42 U.S.C. §§ 3026(e), 3027(f)(1), § 3058d(b) (2012). *See also*, 45 C.F.R. § 1321.51(c) (2014).
- <sup>18</sup> H. REP. NO. 100-97, at 12 (1987).
- <sup>19</sup> 42 U.S.C. § 3012(a)(26)(C) (2012).
- <sup>20</sup> H. REP. NO. 102-199, at 44 (1991).
- <sup>21</sup> The current reporting requirements are dated 5/31/2013 and are applicable to FY '10 and subsequent years. *See Reporting Requirements, supra*, note 13.
- <sup>22</sup> In this Handbook, we do not discuss SPR data that is only or primarily collected by the SUA or the AAAs. This includes data on expenditures for legal assistance and the source of those funds, data on numbers of legal assistance providers, whether any legal assistance providers are AAAs, and data on funding for legal assistance development. *See Reporting Requirements, supra* note 13.
- <sup>23</sup> Although the SPR does not require an estimate of the unduplicated number of persons receiving III-B legal assistance specifically, it is logical that an estimate of the number of persons served by each service in the non-registered service category is needed to arrive at the estimate of all persons served with non-registered services.
- <sup>24</sup> *Reporting Requirements, supra* note 13, at 3.
- <sup>25</sup> *Reporting Requirements, supra* note 13, at 9.
- <sup>26</sup> *Reporting Requirements, supra* note 13, at 9. Regulations prohibiting means testing are found at 45 C.F.R. § 1321.67

- (2014). Statutory prohibitions against cost sharing and allowing voluntary contributions are at 42 U.S.C. § 3030c-2(a)(2), (b)(1) (2012).
- 27 There are two other places on the SPR where legal- and elder rights-related activities might be reported. One is SPR, Section IIE, the “Other Services Profile” which allows you to report “C. Services which protect elder rights.” The other relates to Title VII, the Vulnerable Elder Rights Protection Title (SPR, Section IV.B. – Developmental Accomplishments for a System of Elder Rights). Though we do not address it in this Handbook, it provides an opportunity for the SUA to highlight legal assistance/elder rights development activities that have significant impact on securing and/or preserving elder rights. *See Reporting Requirements, supra* note 13 at 14, 20.
- 28 PENELOPE HOMMEL & LAUREN B. LISI, REPORT ON THE FINDINGS OF THE NATIONAL SURVEY OF STATEWIDE REPORTING PRACTICES FOR OLDER AMERICANS ACT TITLE III-B LEGAL SERVICES (July 2015), available at <http://www.tcsg.org/law/surveyreport2015.htm> [hereafter Report].
- 29 Seventy percent (70%) of states responding to the National Survey of Statewide Reporting Practices for Title III-B Older Americans Act Legal Services reported that at least one III-B provider was also an LSC provider. Of these states, about half reported that over 75% of III-B providers in their state were also LSC providers. *Report, supra* note 28, at 20-21.
- 30 “This is a long process, but well worth the commitment due to the value of the reporting form data.” Quote from respondent to National Survey of Statewide Reporting Systems for Title IIIB Legal Services, *Id.* at 54.
- 31 TCSG is available and happy to consult/brainstorm/provide TA to the developer or other person taking the lead on statewide reporting in the important early planning stage and throughout the entire process.
- 32 TCSG is experienced in providing this type of facilitation, and is available to the extent that our resources allow. Legal Services Developers from other states that have already developed reporting systems might also be able to serve.
- 33 When looking for IT assistance, be sure to consider expertise available from your legal providers and their other funders. If other funders already require a greater level of sophistication in their reporting, providers may have expertise in-house they would be willing to share or they may be able to refer you to a good information management consultant.
- 34 It is possible to focus too much on technology. In at least one state where TCSG has consulted, the LSD has concluded that she cannot let technology concerns drive the development of the system. In some instances, it may be best to come up with the data that is needed and allow providers to figure out how best to get that information to the AAA or SUA.
- 35 The national survey of statewide reporting indicates that besides outside facilitators/IT consultants, other states have included staff from university gerontology departments, and state bar committee representatives. *Report, supra* note 28, at 27 n. 55.
- 36 Examples might include a AAA Director who feels legal assistance is not as important as other services, a AAA Director who believes that strong, well-supported legal programs provide essential protections to older individuals, or a provider who feels reporting imposes burdens on the legal assistance programs without affording benefits.
- 37 *Reporting Requirements, supra* note 13, at 3.
- 38 *Reporting Requirements, supra* note 13, at 9. Total service units include not only service units paid for with III-B funds but also all service units provided to III-B eligible clients no matter the funding source.
- 39 *Reporting Requirements, supra* note 13, at 9. Because means testing is prohibited by the OAA and cost sharing is not allowed for legal assistance programs, the income for legal assistance would consist of voluntary contributions or donations. Regulations prohibiting means testing are found at 45 C.F.R. § 1321.67 (2012). Statutory prohibitions against cost sharing and allowing voluntary contributions are at 42 U.S.C. § 3030c-2(a)(2), (b)(1) (2012).
- 40 California reporting system definition of “Unduplicated Client Count.” DEP’T OF AGING, STATE OF CAL., CALIFORNIA UNIFORM REPORTING SYSTEM FOR TITLE III-B LEGAL SERVICES: INSTRUCTIONS AND DEFINITIONS 11 (Rev. 7/1/2013).
- 41 LEGAL SERVICES CORP., CASE SERVICE REPORT HANDBOOK 15-16 (2008 Edition, as amended 2011), available at <http://grants.lsc.gov/resources/grants-latest-news/revise-csr-handbook-now-available> .
- 42 42 U.S.C. § 3002(33) (2012).
- 43 42 U.S.C. § 3026(a)(4)(A)(i)(I)(aa) (2012).
- 44 *Id.*
- 45 42 U.S.C. § 3026(a)(4)(A)(ii) (2012).
- 46 *Id.*
- 47 *Id.*
- 48 42 U.S.C. § 3027(a)(14)(B) (2012).
- 49 42 U.S.C. § 3026(a)(4)(A)(i)(I)(aa) (2012).
- 50 The national survey of statewide reporting systems for III-B legal services showed that 70% of the 45 states responding had at least one LSC program that was also providing III-B legal services and 86% had at least one provider that was either LSC funded or funded by another non-profit legal aid program. Of the 70% of states with LSC providers, half reported that LSC offices made up at least 76% of their providers. *Report, supra* note 28, at 20-21.
- 51 42 U.S.C. § 3027(a)(11)(E) (2012).

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- 52 Nineteen of the 23 states that we surveyed in our national survey collected or planned to collect data on the types of legal issues handled. *Report, supra* note 28, at 38.
- 53 Ninety-four percent of the states in our survey that reported on legal issue types reported using categories that were the same or substantially similar to the categories/codes used by LSC. *Report, supra* note 28, at 38.
- 54 42 U.S.C § 3002(33) (2012).
- 55 See Natalie Thomas & Penelope Hommel, *Guidelines for Assessing Capacity of a State's Legal Services Delivery System*, BEST PRACTICE NOTES ON DELIVERY OF LEGAL ASSISTANCE TO OLDER PERSONS, March 2015, at 2, 16-17 (discussing what constitutes representation and why Title III-B programs must be able to provide full representation to clients).
- 56 By cross-tabulating levels of service data with other data sets, it is possible to truly see what is going on with the legal services in an office, a region or a state. For example, an examination of data on the numbers of cases closed or data on the use of resources, both funding and staff, is relatively meaningless without examining these data sets in light of the levels of service provided. A case that results in litigation requires a greater investment of time and staff and office resources than a brief consultation. Similarly, data on client demographics and legal issue types becomes more meaningful for targeting and priority setting purposes if it is cross-tabulated with levels of service data to see if the provider is providing appropriate levels of service to priority legal issues and to clients in greatest social and economic need. Even data on outcomes, cross tabulated with level of service data may help identify strategies that are most effective for particular clients or particular legal problems.
- 57 Fourteen of the 23 states considered to have statewide reporting systems in our survey said that they collected data on levels of service and all 14 said that the level of service categories were based in whole or in part on the LSC categories. *Report, supra* note 28, at 38.
- 58 The concept has gone by many names – outcome measures, performance measures, performance outcomes, indicators of impact. Throughout this Handbook, we use “indicators of impact.”
- 59 For a thorough discussion of this topic, see Matthew G. Batista, *Outcome Measures for Title III-B Legal Assistance Programs: An Introduction*, BEST PRACTICE NOTES ON DELIVERY OF LEGAL ASSISTANCE TO OLDER PERSONS, March 2000, at 2.
- 60 Attempts to quantify and measure the difficult-to-measure should be approached cautiously. This is true of efforts to measure the effects and outcomes of legal assistance services. Are the measures being used valid indicators of a real benefit or outcome? Are the calculations needed to arrive at a measure tortured or incredibly complicated and burdensome? Do the calculations involve assigning value or meaning to data based on arguable assumptions? Are the measures to be quantified, even if valid, really useful to an assessment of the benefit of the service?
- 61 Some programs base their calculations on the client's life expectancy using an actuarial chart and multiplying the benefits derived by the remaining number of years of the client's life expectancy. Others are more conservative and use a fixed number of years (one or two) to calculate the value of ongoing benefits.
- 62 This would also mean that the system should not exempt certain types of III-B providers, e.g. private attorneys, from reporting, or require that they report less.
- 63 Failure to allow the reporting system to govern all reporting introduces the possibility of inequities between providers reporting to different AAAs and the possibility of frustrations for providers funded by two or more AAAs with different reporting requirements. For the state, such variations hamper efforts to collect uniform data.
- 64 LEGAL SERVICES CORP., CASE SERVICE REPORT HANDBOOK 7 (2008 Edition, as amended 2011), available at <http://grants.lsc.gov/resources/grants-latest-news/revise-csr-handbook-now-available>.
- 65 The CSR suggests that programs generate and review case management reports to look for instances where cases have been reported twice or to look for instances where cases listed as open can and should be closed. *Id.* at 6-7.
- 66 Over the years, TCSG has worked with a number of states (and senior legal hotlines) on definitions for statewide reporting. The definitions suggested here draw on the learning from that experience, and are based on definitions in LSC's Case Service Report Handbook 2008 Edition as amended 2011, *see supra* note 64, and the ABA's Standards for the Provision of Civil Legal Aid, 2006.
- 67 Generally age data is collected at intake by getting the client's date of birth.
- 68 42 U.S. § 3002(23) (2012).
- 69 For a more in-depth discussion of targeting without means testing, *see* Penelope Hommel, *Targeting Older Americans Act Services Without Means Testing: Meeting the Challenge*, BEST PRACTICE NOTES ON DELIVERY OF LEGAL ASSISTANCE TO OLDER PERSONS, March 2013, at 2, 7, available at <http://www.tcsq.org/bpnotes/july13/contentsjuly13.htm>.
- 70 Many case management systems allow providers to calculate percentage of poverty based on monthly income and the number of persons in the household.
- 71 42 U.S. § 3002(24) (2012).
- 72 The federal interagency website <http://www.lep.gov> defines a person as having Limited English Proficiency if that individual does not speak English as their primary language and has a limited ability to read, speak, write, or understand English
- 73 Beginning in 2014, LSC advised LSC funded programs to collect data on the first language of clients. In 2014 these languages were Spanish or Spanish Creole, Chinese, Vietnamese, Korean, Tagalog, Russian, French Creole, Arabic, Portuguese or Portuguese Creole, and Other languages. In 2015 they will be requiring programs to use an even larger

## ENDNOTES

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- list of 41 languages – including English, American Sign Language, and Other language – taken from the Census list of languages. Legal Services Corp., *Form G-4: Client Age, Ethnicity, and Gender, Actual Forms* [https://lscgrants.lsc.gov/EasyGrants\\_Web\\_LSC/Implementation/Modules/Login/LoginModuleContent.aspx?Config=LoginModuleConfig&Page=GARInstructionsSummary&PageFrame=Print](https://lscgrants.lsc.gov/EasyGrants_Web_LSC/Implementation/Modules/Login/LoginModuleContent.aspx?Config=LoginModuleConfig&Page=GARInstructionsSummary&PageFrame=Print) (last visited August 31, 2015). Whatever the purpose of collecting this information, it is certainly not determinative of Limited English proficiency.
- <sup>74</sup> This may be the most objective way of defining LEP but it still raises issues. For example, a client might bring a relative with them who automatically translates for them, although they may not need it, because that is their normal pattern of communication. Similarly, in an area with a large population of non-English speakers, for example a large population of Spanish speakers, program staff may be fluent in Spanish and everyone may find it easier to speak in Spanish when in fact the client is proficient in English.
- <sup>75</sup> To determine whether clients with more than one OAA-designated demographic characteristic (for example, low-income and minority or low-income and minority and with limited English proficiency) are being targeted, there will need to be a cross-tabulation of the individual data sets, either at the provider level or at the AAA or State level. Wherever, possible, as long as client confidentiality can be preserved, it would be least burdensome to providers to submit raw data and to allow for this cross-tabulation and analysis at the state level. See the discussion of sharing the burden of aggregating/analyzing data in PART TWO, Section IV.A.1, *Method of Reporting*.
- <sup>76</sup> The U.S. Census defines “race” as self-declared descriptors of a person’s social and cultural characteristics as well as ancestry. There are five minimum categories of race defined by the Office of Management and Budget (OMB). They are: Caucasian, American Indian or Alaskan Native, Asian or Asian American, Black or African American, and Native Hawaiian or Other Pacific Islander. U.S. Census Bureau, *About Race*, (Last Revised: July 8, 2103). <http://www.census.gov/topics/population/race/about.html> (last visited August 31, 2015).
- <sup>77</sup> Ethnicity represents social groups with a shared history, sense of identity, geographical and cultural roots that may occur despite racial difference. The Federal government mandates that “in data collection and presentation, federal agencies are required to use a minimum of two ethnicities: ‘Hispanic or Latino’ and ‘Not Hispanic or Latino.’ The questions about race and ethnicity accommodate the possibility of Hispanics also declaring various racial identities. U.S. Census Bureau, *About Hispanic Origin*, <http://www.census.gov/population/hispanic/about/> (last visited August 31, 2015).
- <sup>78</sup> See generally, Rural Assistance Center, *What is Rural?* <http://www.raconline.org/topics/what-is-rural> (last visited August 31, 2015) (comparing the three methods of determining “rural.”). See also, HRSA, Health Information Technology, U.S. Dep’t of Health and Human Serv., *How is Rural Defined?*, <http://www.hrsa.gov/healthit/toolbox/RuralHealthITtoolbox/Introduction/defined.html> (last visited August 31, 2015) and National Agricultural Library, U.S.D.A., *What is Rural?*, (Last Modified: Aug-27-2015) <http://ric.nal.usda.gov/what-is-rural>.
- <sup>79</sup> OHRP works in collaboration with the USDA-ERS, and the Washington, Wyoming, Alaska, Montana and Idaho (WWAMI) Rural Health Research Center.
- <sup>80</sup> In general Census tracts with RUCA codes 4 through 10 are considered rural. For a more detailed explanation of RUCAs and guidance on aggregating codes into two groups – rural and urban - go to Rural Health Research Center, WWAMI, *RUCA Data: Using RUCA Data*, <http://depts.washington.edu/uwruca/ruca-uses.php> (last visited August 31, 2015). Ohio Title III-B programs are using Categorization D of the RUCAs as described in the link provided.
- <sup>81</sup> The RUCA codes are updated with each decennial census. To download zip codes go to Economic Research Service, U.S.D.A., *Rural-Urban Commuting Codes*, <http://www.ers.usda.gov/data-products/rural-urban-commuting-area-codes.aspx> (last visited September 8, 2015).