



LEGAL SERVICES CORPORATION

Assistance to LSC Grantees Regarding "Measuring the number of Potential Clients that we are Unable to Serve"

LSC has received several questions from grantees regarding the survey recently distributed on measuring the number of potential clients that grantee programs are unable to serve. As a result, LSC has begun developing a listing of frequently asked questions (FAQs) and responses to assist grantees who have similar inquiries.

Below is LSC's initial listing of FAQs and responses. LSC asks that grantees consider these questions and responses when completing the survey on measuring unmet need. LSC will add to the listing of FAQs and responses as additional questions are received.

For the convenience of grantees, LSC has established a service desk to receive and respond to grantee questions about the survey. Contact the service desk at UTSquestions@lsc.gov. The confidentiality of all grantee inquiries will be fully respected. To the extent possible, LSC will respond to grantee questions within 24 hours. From this point forward, LSC requests that grantees submit all survey questions to the service desk so that the knowledge gained from grantee inquiries may be shared with all survey respondents.

The listing below of frequently asked questions and responses is organized by four categories:

- A. General Informational Questions.**
- B. Unable to Serve Fully Questions.** Grantees are asked to identify cases where advice and brief service was provided, but where, if more resources were available, it would have been preferable to provide full representation to the client. FAQ questions ask for guidance in making this sometimes difficult distinction.
- C. Extended Service Cases Accepted Questions.** In column E of the survey chart, LSC asks grantees to identify cases that have been opened that are being handled as extended service. Questions about how to do this in the cases that are not yet closed and where the extent of service is not yet absolutely clear are addressed.
- D. Cases funded from Non-LSC sources Questions.** Several grantees have asked whether cases in which services are supported by other funding sources should be counted in the survey.

LSC will update the listing of FAQs and Responses as additional questions are received. To access updates to the FAQs and Responses go to www.rin.lsc.gov, then click on bulletin board, then click on UTS (unable to serve) FAQs.

UTS FAQs & Responses

A. General Informational Questions:

- 1 Does LSC plan to continue this survey later in the year or on an ongoing basis?

Response:

No. LSC plans to limit the survey to the two-month period from March 14 through May 13, 2005. There are no plans to continue the survey beyond that date or request the collection of the data beyond May 13.

- 2 Why is LSC interested in measuring the number of potential clients that grantees are unable to serve? What does LSC plan to do with the survey data?

Response:

As indicated in Helaine Barnett's cover memo to the survey (e-mailed to all grantees in February), LSC may consider the survey results and analysis as part of a strategy to help maintain or increase Federal funding for legal services to low-income people and to document the current gap between the need for services and currently available resources.

- 3 Is every grantee required to respond to the survey?

Response: Yes.

- 4 Does LSC plan to use this data as part of an assessment of individual grantees?

Response: No.

- 5 Will grantee's inquiries be treated confidentially?

Response: Yes.

- 6 Should grantees consider "matters" in the survey?

Response: No.

7 What should programs do if they have questions?

Response:

Programs should refer to LSC's listing of frequently asked questions and responses. The listing will be available at www.rin.lsc.gov. Once at the site, click on bulletin board, and then click on "UTS FAQ. LSC will update the FAQ listing as additional inquiries are received. Grantees should also contact the LSC service desk at UTSquestions@lsc.gov if they are unsure about how (or whether) to count a case and report it in the survey.

8 What are some examples of cases or services that should not be counted in the survey?

Response:

- *Do not count cases that the grantee would not include in its CSRs.*
- *Do not count cases that are referred to another provider, if the grantee anticipates that the organization to which the referral is made will almost certainly provide the necessary representation.*
- *Do not count cases where a client has withdrawn.*
- *Do not count cases where a client has become ineligible for service.*
- *Do not count cases where the grantee has determined that the case has insufficient merit to proceed.*

9. Should grantees count their PAI cases in the survey?

Response: Yes.

B. Unable to Serve Fully:

How is a program to know whether a brief service case "resolves the issue" or not?

Response:

Respondents are asked to make their best determination based on their judgment and experience. In some cases, it may be relatively easy to say that advice/brief service addresses what clients are looking for or need. While it is difficult to give examples because laws differ from state to state, four categories suggest themselves:

- *Some clients are contacting the program about concerns of what might happen to them, through, for example, self-help eviction, or incarceration based on unpaid debts. A consultation may allay the fears of the caller and fully address the reason for the inquiry.*
- *Conversely, some brief service cases that bring bad news “resolve” the case. Where the client does not have a remedy in the law, giving the client that information is all that can be done, even though the client would wish otherwise. This would be the case in a debt collection matter where the consumer has no defense based on non-payment of the debt and where there are no prospects of raising the funds or reaching a compromise. There, of course, may be issues of the client being judgment proof or issues of a possible bankruptcy.*
- *In other cases, the case handler’s advice on how the client should proceed – such as the written assertion of a right or some other step taking advantage of a statutory remedy -- might be all that is needed.*
- *Similarly, in brief service cases, it may be clear to the case handler that the brief service has addressed the concern. A call to the landlord or the department of social services may have led to a full and satisfactory resolution.*

Conversely, in many cases it may be clear that, if resources were available, the preferable route would be to continue to represent the client. It is usually the case that the priority that excludes extended representation in a particular case does so only because the program’s resources are scarce and the program desires to focus its resources on cases that the community perceives as having the highest need. In most cases in most courts, it would be preferable for there to be attorney representation – the only reason that the program is not pursuing the case is due to its limited resources. For example, where the program chooses not to offer extended representation to a party in a divorce in the absence of a custody dispute or domestic violence, it is a case of “unable to fully serve.”

LSC understands that certainty is not possible in some cases. If there is a question as to whether the advice/brief service provided resolves the matter, feel free to conclude that it doesn’t, and that the situation you are contemplating is one of “unable to serve fully.” LSC will qualify any of its conclusions on the “unable to serve fully” count with an explanation of the inherent uncertainties involved.

C. Extended Service Cases Accepted

How should programs count cases if they are not sure the case accepted will ultimately require extended service?

Response:

Grantees are asked to use their best judgment in determining whether cases that are not yet closed will most likely be closed as "extended service." There is no foolproof or certain way to know whether a case that is not yet closed will be an extended service case. In some cases, the assignment of the case to a case handler carries the expectation that it will, in all likelihood be an extended representation case. In others, it might be necessary to check with the case handler. And, even where the case handler's intention is to handle a case to a decision or other settlement, some intervening event – client withdrawal, subsequent determination of lack of merit or lack of priority status, or change in client eligibility status, for example – may change the nature or extent of the service provided. Please make your best judgment as to the number of cases opened March 14th through May 13th and that are still open that will be closed as "extended service and report those. LSC will be careful to explain in any summary report that these are estimates, not facts. (Cases reported in column E would include these open cases and cases that were closed as "extended service by May 13th.)

D. Cases funded from Non-LSC sources.

Should grantees include in their counts cases that were funded by sources other than LSC?

Response:

Please include cases that are determined to be LSC eligible – whether the services provided are supported by LSC funds or by another funding source. Please do not include cases that have been legitimately handled with other funds that do not meet LSC eligibility guidelines. (Examples of cases in this category are clients who are over-income for LSC purposes and Kennedy Amendment cases -- battered spouses that are not citizens or eligible aliens.)