

LEGAL SERVICES CORPORATION

Office of Program Performance

PROGRAM QUALITY REPORT

FOR

Dakota Plains Legal Services
Recipient Number: 742018

August 11-15, 2008

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INTRODUCTION

The Legal Services Corporation (LSC) Office of Program Performance (OPP) conducted a Program Quality Visit to Dakota Plains Legal Services (DPLS) from August 11-15, 2008. The on-site visit team included OPP program counsels Timothy Watson and Evora Thomas and consultant Carolyn Worrell.

OPP seeks to ensure that all recipients of LSC funds are providing high quality, efficient, and effective legal services to eligible clients. The purpose of the August 2008 visit was to assess the overall quality of legal services provided by DPLS to eligible clients, including the program's engagement with and service to the low-income community, and the effectiveness of its legal representation and other program activities, leadership, management, and administration. In performing its evaluation, OPP relied on the LSC Act and regulations, LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid.

Careful consideration was given to documents submitted to LSC by DPLS over the past year, including application narratives and reports of cases and other services. Factors that were considered include staffing, office location, intake system, private attorney involvement, use of technology, legal work management and supervision, quality and quantity of legal work, leadership, resource development, coordination within the delivery system, and the program's experience and reputation. The team reviewed numerous documents submitted by DPLS in advance of the visit.

Team members visited five DPLS offices in Rapid City, Pine Ridge, Mission, Fort Thompson, and Eagle Butte. They interviewed the executive director, administrator, supervising and staff attorneys, tribal court advocates, paralegals, and administrative and support staff. They also interviewed board members, judges, community partners, and bar association representatives. Due to scheduling constraints the on-site team was unable to visit the distant Sisseton and Fort Yates offices.¹

DPLS is one of the original LSC Native American programs. Its Native American service area is statewide and includes six Sioux Indian reservations: Rosebud, Lower Brule, Crow Creek, Cheyenne River, Standing Rock, and the Pine Ridge reservation (site of Wounded Knee). Additionally, the Yankton and Lake Traverse Sioux occupy "open reservations," so named because they no longer have consolidated land bases. A final group is the Flandreau Santee Sioux Tribe, who have a small "open land base" just north of Sioux Falls. Five of the program's seven offices are located on reservations. One of these offices is actually located in North Dakota (Fort Yates), where the Standing Rock Reservation juts upward into the area of North Dakota that is south of Bismarck.

DPLS serves a geographic area of 51,998 square miles. The only city of size is Rapid City, which has a population of approximately 62,000. Pierre, the capitol, has approximately 15,000. The general population in the service area is 284,106 according to the 2000 census. The poverty population is 51,998. More than 96% of the poverty

¹ Both of those offices were visited 16 months earlier — April 2007 — during a Program Engagement Visit.

population is either Native American (49%) or white (47.16%). The next largest group is Latino Hispanics (2.03%). Occasionally the program requires assistance with translation for clients who do not speak English.

DPLS receives \$906,639 in LSC Native American funding and \$464,059 in basic field funding. The program's basic field service area occupies all parts of the state west of the Missouri plus the counties that are adjacent to the river on its east side. In addition to the Native American and basic field funding, there is a small amount from LSC (\$3,845) for migrant work. The program has approximately \$760,000 in non-LSC funds. The three largest non-LSC funders are the Indian Land Tenure Foundation (\$120,000), Pennington County Advocacy² (\$186,000), and the South Dakota Network Against Family Violence and Sexual Assault (\$104,000).

- Summary of Report -

Dakota Plains Legal Services has had some difficulty in keeping an executive director since its long-time director left in mid-2005. Over a two-year period DPLS lost and hired a new director three times. The program used experienced managerial staff as acting directors in the periods between the short-lived directorships. The current director has now been in place more than a year, and the program has been revitalized.

The new director immediately set about conducting an extensive survey of legal needs. The program has not yet finalized its priorities. It could benefit from more input from outside agencies as it evaluates the legal needs data.

DPLS has a culturally sensitive, predominantly Native American staff that is sensitive to the needs of its client population and is well known throughout the service area. Both outreach efforts and intake procedures, although generally sufficient, may be inconsistent over the service area.

Legal work is sufficient in case numbers and quality and is supported by systems that promote effective and efficient casework. The non-Native American casework has fallen significantly in recent years and the program has been asked to determine the cause. The computer network has not been configured for easy document sharing, but it can be improved with changes that will not be too burdensome.

The contract PAI component is only marginally successful, but there are few attorneys in the area and they generally do not practice in the tribal courts where most of the program's work is done.

The DPLS board fulfills its oversight functions well, but should examine its procedures and practices for new approaches to governance.

² This grant funds criminal representation performed by the Rapid City office under the public defender exception at §1610.6.

DPLS is having difficulty in retaining its attorney staff, and one-attorney remote offices, although somewhat concerning, are becoming the norm for the program.

DPLS coordinates well with other providers. It is pursuing state funding through efforts with the bar and the East River program, but it might wish to explore other means of improving its development efforts.

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

Finding 1: DPLS has engaged in a thoughtful, well-documented process to capture needs assessment data in order to determine whether it should affirm or modify its priorities.

The current priorities of DPLS were established in 2002. These priorities were based on survey data that was collected in 1999, prior to the incorporation of the Black Hills service area, which also occurred in 2002. In view of the fact that the incorporation of the Black Hills service area included the newly formed service area's most populace city (Rapid City; est. population 62,000), a new assessment of needs by the consolidated program has been long overdue. This was made a priority of the program's new executive director, appointed in August of 2007. DPLS has recently collected information concerning critical legal needs of clients in the service area. It was accomplished via several surveys, which were tailored to be filled out by individuals belonging to different interest groups, such as community agencies, attorneys, courts, client groups, the program's board, and its staff. Over 2,000 surveys were sent out or otherwise made available to potential respondents. More than 1,000 surveys were returned to the program.

The program has prepared a 15 page draft statement concerning the data and the conclusions to be drawn from it. The statement discusses or makes reference to the factors that have been considered, including LSC's applicable regulations, program resources, assistance from other providers, and cultural and geographic nuances of the area. Although the board had not yet acted on the matter, the draft statement recommends a continuation of the existing priorities.³ The program has indicated that there is very little difference between the priorities of the Native and non-Native service areas.

Finding 2: In determining final program priorities, DPLS could benefit from a more inclusive and deliberative process for evaluation of the legal needs data.

Notwithstanding the good response that was received from the surveys, some agency representatives who were interviewed during the visit stated that they were unaware that

³ Indian law, family law, criminal defense, health, housing, income maintenance, education, economic development assistance and incorporation, consumer/finance, individual rights and other civil rights matters, and wills/estates.

the needs survey had taken place and that they would like to have the opportunity to provide input. Similarly, some staff members indicated a desire to see the raw data and have some further input in the deliberative process. Several interviews of agency representatives and court personnel revealed that they want more knowledge about the kinds of cases that DPLS can handle.

In view of the foregoing, it appears that the priority setting process would be both enhanced and validated if the program would engage in more extended deliberations before making recommendations about priorities to the board. This deliberative process could include consideration of the survey results by one or more focus groups that could be combinations of staff, board, public and private partner agencies and court personnel. By including representatives from outside of DPLS in the process of evaluating the data, the program could gain their perspective on the data and would receive the additional dividend that they will be thereafter be more knowledgeable about the kinds of cases that DPLS can handle and the reasons for the choices made by the program.

Recommendation I-2-1:⁴ DPLS should consider revising its priority setting process to include other civil justice stakeholders in the analysis of needs data and deliberations about program priorities.

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

A. Dignity and Sensitivity

Finding 3: DPLS has a staff that is sensitive to the needs of its client population and treats clients with dignity and respect.

Without exception, judges, bar leaders, tribal leaders, and service agencies were highly complimentary about the DPLS staff's treatment of clients. The staff was described as professional, kind, respectful, and culturally sensitive. Since most of the program offices are located on reservations, most of the staff are Native Americans. Some of them speak Lakota well enough to assist elder clients who do not speak English. On occasion, other clients are asked to assist as translators. The visit team saw such an arrangement made during the visit.

Interviewees also noted that the staff, both Native and non-Native, are often seen at community events. The staff members who come from other areas of the country to work at the program are known to support their communities and become strong participants in local affairs and cultural events.

⁴ Recommendations in this report will have three numbers. The first corresponds to the LSC Performance Criteria Area, the second to the finding, and the third to the recommendation. Recommendation I-2-1 is therefore the first Recommendation (in this instance the only one) under Performance Area I, Finding 2.

B. Access and Engagement

Finding 4: Outreach to client communities is substantial, but varies significantly over time and from office to office. DPLS clients would benefit from a heightened outreach effort.

Staff members described the program's outreach efforts regarding seniors, tax laws, estate planning, native land retention, housing rights, consumer fraud, the rights of foster grandparents, client eligibility, the intake process, and the types of cases that DPLS can handle. Venues and methods include radio, television, presentations at the law school, local government offices, and senior housing developments. There was a particularly concerted outreach effort to alert the client community about Indian land tenure issues in 2005-2006.

Although the above efforts have doubtless provided valuable and timely information about the program's mission and the legal rights of clients, the LSC team received several indications in interviews that "lots of people don't know how to access the program" and that courts and agencies have inadequate information regarding program priorities and the intake process. Some agency representatives were aware that outreach efforts exist but stated that none had been conducted at their program. There is also a perception that DPLS is only for Native Americans.

DPLS would benefit from an examination of its outreach efforts for effect and consistency. Some offices conduct regular outreach while others do so by invitation or when they perceive that it is needed. The creation of a written program outreach policy that is based on clearly articulated objectives could yield significant long-range benefits.

Recommendation II-4-1: DPLS should consider creation of a written outreach policy that will assure adequate deployment of outreach efforts across the service area and a higher level of awareness by both clients and partner agencies of the program's availability, goals, and procedures.

Finding 5: DPLS has no formal intake policy, and procedures and treatment of potential clients vary significantly from office to office.

The program's written intake policy appears to consist of a collection of descriptions of the procedures and methods used at each office in the service area. The intake hours, process, and treatment of clients varies considerably from office to office. Some offices require applicants to come to the office before an advocate will talk to them. In one office, staff will not conduct preliminary eligibility screening on the phone. In others the staff are more willing to do intake and provide advice and counsel and even brief services over the phone. Whether or not an office will complete the application on the phone and then send it to the client is entirely a local decision. Intake days and hours range from an office being open to intake for several hours four days a week, to an office being open to intake only three hours on one day per week. In some instances, the applicant may come

to the office to be screened for eligibility and then wait several weeks for an appointment. In others, the applicant will see an advocate on the same day.

Notwithstanding the foregoing differences, the DPLS offices are client oriented and change local procedures according to circumstance. In most offices, if a client shows up on a non-intake days, the staff still take their applications and case handlers see them if possible, especially if the applicant has traveled a distance to come to the program. The latter is often the case on reservations, and some members of the client population often resort to hitch-hiking to get to legal aid offices. DPLS offices also work hard to accomplish same-day assistance for emergency situations.

Interviews with other service organizations and the bench and bar suggest that in some locales the program may be perceived as slow in accepting or rejecting applications for assistance, and that, even in emergencies, the cases sometime become moot while waiting for a case acceptance decision. Another view that was heard in those interviews is that too many cases are rejected because of conflicts that may arise from representation in the remote past or on matters that should not create a conflict.

DPLS needs to evaluate its intake system. While there is no doubt that local conditions can justify some local variations in intake procedures, without an overarching program intake policy, some of these variations may be rooted more in local history and tradition rather than in rationale. Where local policies do not emanate from a clearly articulated policy, the reality may be that clients do not have relative equity of access to services. Given the extreme poverty of the service area, cost of gas, and difficulty in transportation, DPLS should develop a policy that provides a consistent rationale for variations in client access. During this process of self-examination, the program would do well to study its conflicts policy and whether direct input of intake information into the CMS in lieu of paper transactions would be more efficient. One approach would be to create an intake task force that would include outside agencies and stakeholders. DPLS could also consult with other programs about their intake strategies. LSC's Intake Focus Team can also assist in the program's evaluation of its intake system

Recommendation II-5-1: DPLS needs to study its intake system and adopt a formal, well-articulated intake policy based on core values of efficiency, effectiveness, and client access.

PERFORMANCE AREA THREE: Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area.

A. Legal Representation

Finding 6: DPLS has a talented, committed legal staff that enjoys a good reputation in the legal community.

State court judges, tribal court judges, and private attorneys rated the overall representation provided by DPLS attorneys and paralegals as very good to excellent and

equal to that of the private bar. Criteria cited included knowledge of the law, level of preparation, timeliness, professionalism, demeanor, effectiveness of legal writing, and performance in hearings. It was noted by one judge that the attorneys and tribal advocates are often willing to come to court on short notice. These interviewees were complimentary about the level of commitment that has been demonstrated by DPLS concerning issues that affect the client population. They also suggested that DPLS enjoys a high level of respect by the legal community. Writing samples provided by program staff are consistent with the foregoing assessments.

Finding 7: Although the total number of cases has decreased over the last three years (primarily in non-Native American casework), DPLS exceeds the national median for the number of cases per 10,000 poor, and it closes a high percentage of extended cases. However, its basic field case numbers have declined consistently for five years.

In 2007 DPLS closed 1,872 cases. Of this number, 1,328 were Native American (NA) cases, and 544 were basic field. The program’s total case closures fell to the current total from a 2005 figure of 2,149. This is roughly a 13% drop. When the NA and basic field cases are separated, it is apparent that the NA case closures have remained relatively constant in the last three years, while the numbers for basic field closures have fallen:

Changes in Annual Case Closings – Native American and Basic Field

	2003	2004	% + / -	2005	% + / -	2006	% + / -	2007	% + / -
Native American	931	1,089	+ 17 %	1,347	+ 24 %	1,363	+ 1.5 %	1,328	- 2.3 %
Basic Field	1,117	977	- 12 %	802	- 18 %	593	- 26 %	544	- 8.5 %

The cumulative drop in Basic Field cases over the five year period — from 1,117 to 544 — is a drop of 51%. There is no ready explanation for this, and the program director has been asked to explore this issue.

DPLS closes 361 cases per 10,000 poor people, which substantially exceeds the national median figure of 253. Overall, 54% of the case closures were for extended casework. Extended casework accounted for 30% of the basic field cases and 65% of the NA cases. Percentages of total 2007 case closures by *case type* were as follows:

Percentage of DPLS Cases by Case Type and Service Area – 2007

Type	Basic Field	Native American	All
Consumer	16.2 %	4.3 %	7.7 %
Education	-0-	.6 %	.4 %
Employment	2.2 %	2.4 %	2.4 %
Family	36.8 %	28 %	30.6 %
Juvenile	.2 %	6.3 %	4.5 %
Health	1.7 %	2 %	1.9 %
Housing	20.6 %	4.4 %	9.1 %
Income Maintenance	3.7 %	7.2 %	6.1 %
Individual Rights	4.2 %	3.6 %	3.8 %
Miscellaneous	14.5 %	41.3 %	33.5 %

Recommendation III-7-1: DPLS should determine the cause of the decline in non-Native American case numbers and act to ensure that non-Native American cases remain a vital component of the program’s work.

Finding 8: DPLS has sufficient procedures and systems in place to ensure that representation is effective and efficient.

Managing attorneys are responsible for management and supervision in all offices. In the Pine Ridge, Ft. Yates, Ft. Thompson, and Eagle Butte offices, the managing attorney is the only attorney, although paralegals who practice in tribal courts are also housed in those offices. Interviews with advocates and other staff revealed that the program has experienced a new emphasis on legal work tracking and management with the arrival of the program’s new director. One advocate indicated that the program’s new emphasis on collaboration and procedure was having the effect that the program was “beginning to feel like a law firm.” All offices conduct weekly case acceptance meetings where case plans are initially developed. The program conducts regular management conference calls in which any staff member can participate. All advocates must file monthly case reports. The TIME case management system is employed by management to analyze the program’s case handling posture from month to month. Advocates are encouraged to maintain timely case notes from opening through closing and to confirm

legal advice with letters. Interviews suggested that closing letters are prepared at the conclusion of the case.

Advocates indicated that they feel free to request training and appear to receive it as needed within the limits program's ability to provide it. Training needs are also assessed at orientation for new hires. The program has \$10,000 budgeted for staff training. Several advocates have received skills training at the National Institute for Trial Advocacy, and some have been trainers there. The status of the program's training needs is reportedly almost always a topic of conversation in the monthly case handler meetings.

Advocates have access to online legal research and limited access to other research materials on the program's network drives. It is anticipated that another eventual site of substantial research materials such as briefs and forms will be the advocate section of the helpsouthdakota.com website. This site was developed through a Technology Initiative Grant (TIG) from LSC. Completion has been stalled somewhat, as the state's stakeholders work out a system for upkeep of the site, including population of the advocate section with research materials. DPLS hopes to receive another TIG grant or other funding to continue this work.

Finding 9: The DPLS computer network, as configured, does not allow optimum sharing of research materials.

Although advocates have access to research materials on the program's network drives, the computer network is improperly configured to allow for practical, efficient sharing of materials. The drives are set up so that materials generated by a particular office are viewable on the network by that office only, such that an advocate from Pine Ridge who wished to see recent briefs generated in the Mission office cannot access them. An LSC team member discussed this with the program administrator and the IT contractor (by phone). The discussion revealed that the office network locations had been set up that way to protect clients' privacy. The team suggested that the program is a statewide law firm and that there was no reason for this limitation.

Program communications have by all accounts improved enormously, but advocates indicated that network communications were often too slow and, as a result, that downloading materials from other offices often was too time-consuming. Network speed and communications is especially critical for providers with distant offices that operate with few staff. These one- and two-attorney offices can function much better in an environment with rapid email, case management, and download capability. LSC discussed this issue, too, with the program administrator and the IT contractor. The team learned that case management, emails, and all other network functions were running off one server in the Mission office through a single DSL connection. LSC shared ideas concerning alternate configurations of networks that have been seen in other locations. At the end of the visit the IT contractor was working on a plan to improve the system's speed.

Recommendation III-9-1: The DPLS computer network should be reconfigured to provide greater speed and access to research materials.

B. Private Attorney Involvement

Finding 10: DPLS has difficulty in expending its PAI funds using traditional means and closes few PAI cases in relation to funds expended.

Interviews suggested that there are substantial difficulties in employing the usual PAI approaches (contract and volunteer) in Indian country. There are very few private attorneys available, and private attorneys practice very little in tribal court, where most of the program work is done. Attorneys already on the reservations have positions with the tribes and usually are unable to assist the PAI effort.

DPLS employs a compensated attorney model which is handled out of the Mission office. The program administrator and the executive director work together to match attorneys to clients and monitor the cases for quality and timeliness. Client satisfaction questionnaires are used in each case. The contract panel consists of 24 lawyers dispersed over a wide geographic area. The administrator indicated that a considerable amount of time is spent on setting up and following PAI cases. She explained that in this service area clients often live in harsh rural terrain and have no transportation. A PAI client's lawyer and the court may be 90 miles away and are often reached by hitch-hiking. In these circumstances coordination of a PAI case is reported to be difficult and time-consuming, particularly at its inception. The DPLS PAI requirement is approximately \$56,000.00. In the year preceding the visit, DPLS received a waiver of \$20,000 and closed 11 cases at an approximate expenditure of \$36,000.00.

The Rapid City office rarely makes use of PAI contract funds. They are able to refer cases to the pro bono panel of state bar's Access to Justice program, which is funded by IOLTA funds from the Bar Foundation and is run by the former comptroller and co-director of DPLS. The president of the bar recently encouraged law firms to provide opportunities for their younger attorneys to volunteer for pro bono cases. Staff in the Rapid City office indicated that the availability of the pro bono panel is making an important difference for clients who might otherwise be denied service for various reasons. The staff assists private attorney volunteers by providing them with forms and other documents.

Finding 11: The DPLS board has passed a PAI resolution in response to the LSC Board's resolution that encourages increased engagement of private attorneys.

LSC has encouraged its recipients to pass PAI resolutions as part of a national initiative to increase the use of pro bono resources. DPLS did so on July 20, 2007. The resolution discusses several of the aspects of the resolution adopted by the LSC Board of Directors, including means of recognizing private attorney contributions and additional uses for attorney volunteers.

C. Other Program Services to, and on Behalf of, the Eligible Client Population

Finding 12: DPLS engages in a variety of activities with and on behalf of the client community, including pro se clinics, community education on legal rights, and development of methods of alternative dispute resolution.

DPLS has assisted the state bench and bar in developing court-approved pro se forms and packets for both state and tribal courts. DPLS staff members explain the use of these forms at community workshops and other forums. Most pro se forms and materials have been developed for use in family law. DPLS staff have also assisted in the development of alternative dispute resolution, including training of mediators, in tribal court. This work was done with staff at Sinte Gleska University on the Rosebud reservation, with the goal of creating a peacemaker approach that is similar to methods used in traditional tribal societies to restore harmony among members of the tribe.

Staff members conduct community education and workshops throughout the service area on a variety of legal issues, such as housing discrimination against Native Americans, wills, advance directives and powers of attorney, and health care financial planning, and consumer issues. Some presentations have been hour-long events on radio. Some community partners have suggested that the program needs to increase these efforts. See Finding 2 and Recommendation II-2-1.

PERFORMANCE AREA FOUR: Effectiveness of governance, leadership and administration.

A. Board Governance

Finding 13: The DPLS board fulfills its oversight functions well, but might benefit from changes to some of its procedures and practices.

The DPLS board has 31 positions with 2 vacancies. It meets four times per year. The program is considering conducting two of the four meetings by conference call to save the time and expense entailed by convening from widely scattered locations. Attendance was characterized in the interviews as generally good. Recitations of attendance in the board meetings for which LSC has minutes shows a relatively constant attendance pattern of 19 to 20 present and 9 to 10 absent. It was suggested that the December meeting is usually the one that has the highest attendance owing to the need for decisions on the budget and priorities. Board members serve four year terms without limit on the number of terms one can serve. Term endings are staggered among the membership to preserve continuity of operations. There is no orientation for new board members. The budget does not contain funds for board training.

Client-eligible board members are active in board functions and feel that their input is valued by the board at large. All committees have client-eligible representatives. The board has several committees, including Executive, Audit/Finance, Client Grievance, and Strategic Planning. It occasionally forms other committees, e.g., the Committee for Executive Director Evaluation, as needed. The LSC grant application is always presented to the executive committee before it goes to the board. The executive committee members were instrumental in getting the new mobile homes for the Pine Ridge and Eagle Butte offices when the old units had reached a dilapidated state.

Board members report that they receive materials, including budget reports and financials, two to three weeks in advance of meetings. The audit committee meets with the auditor each year to review the audit and discuss any shortcomings. The board does not engage in multiyear budgeting or financial planning. The board must approve any expenditure above \$4,000.00.

Although staff members from the program attend the board meetings, staff presentations on program activities other than reports by the director and administrator are rare. There are no board-staff committees.

Interviews with board members suggested that the rapid turnover of the last two executive directors was due in part to the board's haste in hiring them. By all accounts the board is satisfied with the current director.

Recommendation IV-13-1: The DPLS board should consider (1) having a routine line-staff presentation at each meeting, (2) setting term limits, (3) reducing its size, (4) engaging in periodic board training, and (5) providing an orientation for new members.⁵

B. Leadership, Management, Administration, Finance, Communications

Finding 14: Program morale, communications, and day-to-day functions have improved significantly in the last year.

The program's difficulty in keeping a director since 2005 has had the effect of keeping the program in a waiting mode — maintaining essential operations but without an overarching plan or course. Both staff and board feel that the new director is bringing them together and charting a course for the program. Communications are described as very good. Staff were enthusiastic about the two program wide meetings that have taken place, as well as the regular conference calls on all aspects of the program. Morale was described as high by all interviewees, some of whom expressed the feeling that DPLS is beginning to feel like a law firm.

Finding 15: Given the limitations imposed by program size and geography, the DPLS staff does a good job of carrying out core administrative functions.

The size of the DPLS staff and the configuration of its offices — 30 staff members in seven locations across the state — mandates that the executive director and program administrator, both housed in the Mission office, be responsible for many functions that might be spread among several persons in other programs. They manage most aspects of

⁵ This recommendation is made simply to offer suggestions to the board about its functioning, based on LSC's observations of other board practices among LSC grantees. Boards tell us that they learn more easily about activities in their programs when there is a line-staff presentation, beyond the executive staff reports, as a routine item at each meeting. Further, LSC has found that some boards have chosen to reduce their size, establish term limits, and engage in occasional board training in order to improve their efficiency, cut costs, or raise their functioning to an even higher level.

program administration, including day-to-day financial management, technology, PAI, human resource issues, resource development, and communications.

The program administrator is in charge of financial administration, in constant consultation with the executive director. The administrator prepares budget proposals, budget reports and financial statements for the board. She attends the board meetings and regularly presents and explains the financial materials to the board.

C. Human Resources

Finding 16: DPLS is having difficulty in retaining its attorney staff.

As indicated above, the program has no designated human resources manager. This function is handled by the executive director and program administrator. The new director has required that staff evaluations take place, and new employees now receive an orientation before taking up their duties.

DPLS is challenged with professional staff retention. Board members expressed concern about staff losses. Particular concern was voiced about the loss of one of the two attorneys at the Pine Ridge. One non-DPLS attorney expressed the concern that program attorneys in single lawyer offices cannot develop professionally because they will never have the time to work on significant or complex cases. Interviews with private attorneys and representatives of other service agencies also revealed a concern about maintaining continuity in view of professional staff losses. Some board members discussed the need to stop losses by providing higher pay.

Some new attorneys are in need of loan repayment assistance. The program was in transition between an interim director and the new one when LSC announced its last round of LRAP applications and, as a consequence, did not apply. The director is working on finding other assistance for the attorneys in need of assistance. DPLS does not have its own internal program.

D. Resource Development/Maintenance

Finding 17: DPLS is pursuing state funding through efforts with the bar and has maintained a steady level of non-LSC funding. However, the program's development efforts could be improved.

The percentage of non-LSC funding has varied from approximately 25% to 40% over the last four years. For 2007 the non-LSC percentage is 35%, which amounts to approximately \$760,000. The three largest non-LSC funders are the Indian Land Tenure Foundation (\$120,000), Pennington County Advocacy (\$186,000), and the South Dakota Network Against Family Violence and Sexual Assault (\$104,000). Resource development is primarily the responsibility of the executive director. The program is working with the state bar to renew efforts to secure state funding for legal services. This is part of a long-term effort in conjunction with East River Legal Services in Sioux Falls.

Interviews suggested that there may be one or two funders who feel that DPLS could do a better job of convincing them that their money is well spent. The impression from the interviews was that one or more funders felt that they were being taken for granted.

DPLS does not publish an annual report, citing the expense of the process as the primary reason for not doing so.

Recommendation IV-17-1: DPLS should employ a procedure to get feedback from its funding sources to determine their level of satisfaction.

Recommendation IV-17-2: DPLS is strongly encouraged to publish an annual report.

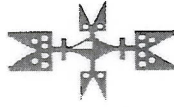
E. Comprehensive and Integrated Delivery Structure

Finding 18: DPLS activities foster comprehensive and integrated service delivery.

In addition to its work with the bar and the East River program, DPLS coordinates its efforts with other civil justice stakeholders. They share their library of legal materials and also allow the use of their office space for other organizations. DPLS has conducted training for the South Dakota State Bar at the University of South Dakota Law School. The managing attorney in Mission is spearheading a project to involve law school students to assist on cases. He is writing a manual for use in this joint project.

Appendix

Dakota Plains Legal Services Comments



DAKOTA PLAINS LEGAL SERVICES

Administrative Offices are located in the Mission Branch Office

LEGAL SERVICES CORP
300 NW - 3 rd St
RECEIVED

Please address reply to:

October 28, 2008

P.O. Box 727
Mission, SD 57555-0727
605-856-4444 • 1-800-658-2297
FAX 605-856-2075

Tim Watson
Office of Program Performance
Legal Services Corporation
3333 K Street, NW, 3rd Floor
Washington, DC 20007

2009 E Hwy 10 Suite C
Sisseton, SD 57262-2501
605-698-3971
FAX 605-698-4156

RE: Response to and Factual Inaccuracies in the Program Quality Report for
Dakota Plains Legal Services

P.O. Box 20
Fort Thompson, SD 57339-0020
605-245-2341
FAX 605-245-2393

Dear Tim:

Below are some things we either started to work on as a result of the quality
visit, a couple of responses and a couple of inaccuracies.

P.O. Box 1989
Pine Ridge, SD 57770-1989
605-867-1020
FAX 605-867-1092

1. PERFORMANCE AREA ONE:

Finding 2

On pages 5 and 6

P.O. Box 500
Eagle Butte, SD 57625-0500
605-964-2175
FAX 605-964-1215

“Not withstanding the good response that was received from the surveys,
some agency representatives who were interviewed during the visit stated that
they were unaware that the needs survey had taken place and that they would
like to have the opportunity to provide input.”

528 Kansas City St., Suite 1
P.O. Box 1500
Rapid City, SD 57709-1500
605-342-7171 • 1-800-742-8602
Fax: 605-348-5874

DPLS Response:

We mailed out surveys to all area agencies that we either work or
collaborate with and agencies that we don't work or collaborate with that we
identified as possibly having knowledge of the civil legal needs of the low
income in our service areas. Attached is a mailing list of all such agencies that
surveys were mailed to. The envelope was stamped in red ink as “Important
Survey Enclosed”.

P.O. Box 507
Fort Yates, ND 58538-0507
701-854-7204
FAX 701-854-3686

2. PERFORMANCE AREA THREE

A. Legal Representation

Finding 9: The DPLS computer network, as configured, does not allow
optimum sharing of research materials.



On page 11 first paragraph:

“Although advocates have access to research materials on the program’s network drives, the computer network is improperly configured to allow for practical, efficient sharing of materials. The drives are set up so that materials generated by a particular office are viewable on the network by that office only, such as an advocate from Pine Ridge who wished to see recent briefs generated in the Mission office cannot access them.”

DPLS Response:

We have solved this problem since the OPP visit in August. DPLS network has had a shared drive (the L drive) where all staff, program wide, had access but was never utilized. Since the OPP visit I placed folders and documents in each folder on this drive. There is a folder for a Brief Bank (where staff can access existing briefs and place new briefs), Brochures (where staff can access between 50 to 75 brochures on topics relevant to our clients and areas law practice that I developed), Case-Handler (this folder is broken down folders into the areas of the law we practice and each contain pleadings, discovery, etc., where case-handlers can access and existing pleading and place new pleadings), Caseload (where case-handlers will be placing their monthly caseload reports for my review rather than mailing or email attachment in folders according to the month), OAA Brochures and Talking Points (for brochures and talking points for staff giving community education talks to the elderly) and Pro Se forms for tribal court pro se forms DPLS has developed.

Page 11 second paragraph:

“Program communications have by all accounts improved enormously, but advocates indicated that network communications were often too slow and, as a result, that downloading materials from other offices often was too time consuming.”

DPLS Response:

DPLS asked our IT contractor to check into this after the OPP visit. He responded as follows:

As a result of the LSC site visit, one of the deficiencies noted was the network response time. We have tested this and the only office with inadequate speeds by today’s standards is our Eagle Butte office. We have looked a number of emerging technology options for this office but were reduced to the current technologies and performance. It also was recommended that we look into a T-1 for the central office in mission, but the cost is prohibitive and the upload and download speeds are comparable to current DSL speeds. The solution we have chosen, or more to the point, it was chosen for us based on affordability and performance. Our telephone company and our IT consultant have found a way to “bind” two DSL circuits into one high speed access. This will produce a solution that is faster and cheaper than a T-1. The cost of a T-1 is about \$800.00 per month, with a setup cost of \$500.00. The cost of the two DSLs will be less than \$150.00 per month with a setup cost between \$1,500.00 and \$2,500.00. This means that in less than four months we will realize the savings over a T-1 solution.

3. PERFORMANCE AREA THREE

B. Private Attorney Involvement

Finding 10

Page 12 Third Paragraph

“The Rapid City office does not make use of PAI contract funds.”

DPLS Response:

The Rapid City office occasionally (although rarely) makes use of PAI contract funds but to a much lesser extent than the other offices because they (the Rapid City office) are able to refer cases to the pro bono panel of the state bar's Access to Justice program.

Finding 11: The DPLS board has not passed a PAI resolution.

DPLS Response:

The DPLS board did pass such a resolution. It was discovered that the resolution inadvertently was never forwarded to LSC. Attached is a copy.

4. PERFORMANCE AREA FOUR

A. Board Governance

Finding 13

Page 13, first paragraph

“It {board} meets four time per year; two meetings are by conference call to save the time and expense entailed by convening from widely scattered locations. Interviews suggested that not all board members were aware that two meetings occur in this fashion.”

DPLS Response:

DPLS Board of Directors meets four times per year. These meetings have historically been in-person meetings. DPLS Administration has been toying with the idea of having two meetings per year by conference call to save on time and expenses. DPLS did experiment by having one board meeting by conference call for it's July, 2008 board meeting. All board members were notified of the date, time and call in procedures well in advance of the conference call. At our October 24, 2008 board meeting (in-person meeting) I will attempt to persuade the board to pass a motion to allow for two board meeting per year be held by conference call to save on expenses of an in-person board meeting.

5. PERFORMANCE AREA FOUR

C. Human Resources

Finding 16

Pennington County Housing and
Redevelopment Commission
Douglas Wells, Executive Director
1805 West Fulton St.

Cornerstone Rescue Mission
Jim Castleberry, Exec. Director
30 Main St.
Rapid City SD 57701

BIA Social Services
Attn: Joan Netterville
PO Box E
Fort Yates ND 58538

Sacred Heart Adolescent Center
Frank McDaniel, Director
PO Box 2000
Eagle Butte SD 57625

OST Department of Public Safety
PO Box 300
Pine Ridge SD 57770

Medicine Root District
PO Box 496
Kyle SD 57752

LaCreek District
PO Box 681
Martin SD 57551

Pine Ridge District
PO Box 348
Pine Ridge SD 57770

OST Education Committee
PO Box 2070
Pine Ridge SD 57770

Lower Brule IHS
PO Box 191
Lower Brule SD 57548

Tri-County Housing Authority
Ms. Sherry Scudder
1220 Cedar St. Suite 113
Sturgis SD 57785

CASA
2650 Jackson Blvd.
Rapid City SD 57701

SD Dept. Of Social Services
Attn: Michael Putzier
PO Box 715
Eagle Butte SD 57625

Lakota Oyate Wakanyeja Owicakiyapi
PO Box 604
Pine Ridge SD 57770

Cangleska Inc.
PO Box 3003
Pine Ridge SD 57770

Eagle Nest District
PO Box 289
Wanblee SD 57577

Porcupine District
PO Box 217
Porcupine SD 57772

Oglala District
PO Box 289
Oglala SD 57764

Sicangu Tikaga Okiciyapi
Habitat for Humanity
PO Box 327
Mission SD 57555

Service Unit Director
Indian Health Service
PO Box 200
Ft. Thompson SD 57339

SANI-T
Ms. Laurette Poirier, Exec. Director
201 Main St. Suite 24
Rapid City SD 57701

Sioux County Social Services
Vince Gillette, Director
PO Box B
Ft. Yates ND 58538

Sacred Heart Women's Shelter
Attn: Marcy Lesmeister
PO Box 2000
Eagle Butte SD 57625

Kevin Steele
Judiciary Committee Coordinators
PO Box 2070
Pine Ridge SD 57770

Wounded Knee District
PO Box 133
Manderson SD 57756

Pass Creek District
PO Box 560
Allen SD 57714

Wakpamni District
PO Box 1993
Pine Ridge SD 57770

OST Attorney General
PO Box 280
Pine Ridge SD 57770

David Valandra
ICWA Specialist
PO Box 139
Ft. Thompson SD 57339

Pierre Area Referral Service
118 East Missouri
Pierre SD 57501

Child Protection Services
Main Street
PO Box 185
Dupree SD 57623-0185

Food Stamps Program
Main Street
PO Box 185
Dupree SD 57623-0185

Medical Eligibility
Main Street
PO Box 185
Dupree SD 57623-0185

Temporary Assistance for Needy Families
Main Street
PO Box 185
Dupree SD 57623-0185

Food Stamps Program
PO Box 139
Red Horse Road
Ft. Thompson SD 57339

Medical Eligibility
PO Box 139
Red Horse Road
Ft. Thompson SD 57339

Temporary Assistance for Needy Families
PO Box 139
Red Horse Road
Ft. Thompson SD 57339

Adult Services & Aging
PO Box 729
Hot Springs SD 57747-0729

Child Protection Services
PO Box 729
Hot Springs SD 57747-0729

Food Stamps Program
PO Box 729
Hot Springs SD 57747-0729

Medical Eligibility
PO Box 729
Hot Springs SD 57747-0729

Temporary Assistance for Needy Families
PO Box 729
Hot Springs SD 57747-0729

Adult Services & Aging
404 3rd Avenue
PO Box 250
Martin SD 57551-0250

Child Protection Services
404 3rd Avenue
PO Box 250
Martin SD 57551-0250

Medical Eligibility
404 3rd Avenue
PO Box 250
Martin SD 57551-0250

Temporary Assistance for Needy Families
404 3rd Avenue
PO Box 250
Martin SD 57551-0250

Adult Services & Aging
671 N. Marge Lane
PO Box 818
Mission SD 57555-0818

Child Protection Services
671 N. Marge Lane
PO Box 818
Mission SD 57555-0818

Food Stamps Program
671 N. Marge Lane
PO Box 818
Mission SD 57555-0818

Medical Eligibility
671 N. Marge Lane
PO Box 818
Mission SD 57555-0818

Temporary Assistance for Needy Families
671 N. Marge Lane
PO Box 818
Mission SD 57555-0818

Adult Services & Aging
PO Box 160
Mobridge SD 57601-0160

Child Protection Services
PO Box 160
Mobridge SD 57601-0160

Food Stamps Program
PO Box 160
Mobridge SD 57601-0160

Temporary Assistance for Needy Families
PO Box 160
Mobridge SD 57601-0160

Medical Eligibility
PO Box 160
Mobridge SD 57601-0160

Adult Services & Aging
912 East Sioux
Pierre SD 57501-3490

Child Protection Services
912 East Sioux
Pierre SD 57501-3490

Child Support Services
912 East Sioux
Pierre SD 57501-3490

Food Stamps Program
912 East Sioux
Pierre SD 57501-3490

Patrick Duffy, Superintendent
BIA Crow Creek Agency
PO Box 139
Ft. Thompson SD 57339

Cleve Her Many Horses, Superintendent
BIA Rosebud Agency
PO Box 550
Rosebud SD 57570

Warren LaBeau, Superintendent
BIA Yankton Agency
PO Box 577
Wagner SD 57380

Joshua Weston, President
Flandreau Santee Sioux Executive Committee
PO Box 283
Flandreau SD 57028

Rodney Bordeaux, President
Rosebud Sioux Tribal Council
PO Box 430
Rosebud SD 57570

Robert Cournoyer, Chairman
Yankton Sioux Business & Claims Committee
PO Box 248
Marty SD 57361-0248

James Two Bulls, Superintendent
BIA Lower Brule Agency
190 Oyate Circle
Lower Brule SD 57548

Russell Hawkins, Superintendent
BIA Sisseton Agency
PO Box 688
Agency Village SD 57262

Joseph Brings Plenty, Chairman
Cheyenne River Sioux Tribe
PO Box 590
Eagle Butte SD 57625

Michael Jandreau, Chairman
Lower Brule Sioux Tribal Council
187 Oyate Circle
Lower Brule SD 57548

Michael Selvage, Sr. Chairman
Sisseton-Wahpeton Oyate for the Lake Traverse Reservation
PO Box 509
Agency Village SD 57262

Daniel Picard, Superintendent
BIA Pine Ridge Agency
PO Box 1203
Pine Ridge SD 57770

Steven McLaughlin, Superintendent
BIA Standing Rock Agency
PO Box E
Fort Yates ND 58538

Lester Thompson, Chairman
Crow Creek Sioux Tribal Council
PO Box 50
Fort Thompson SD 57339

John Yellow Bird Steele, President
Oglala Sioux Tribal Council
PO Box 2070
Pine Ridge SD 57770

Ron His Horse is Thunder, Chairman
Standing Rock Sioux Tribal Council
PO Box D
Fort Yates ND 58538

- The American Bar Association's Model Rule 6.1 and similar state bar rules note the professional responsibility of every lawyer to provide *pro bono* legal assistance to persons of limited means;

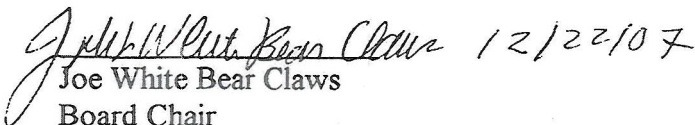
Whereas, in South Dakota, which contains some of the most poverty-stricken areas in the nation as well as a continuing and documented dearth of attorneys practicing in such areas, despite the recent partnership of Dakota Plains Legal Services, East River Legal Services, and the State Bar of South Dakota that created Access to Justice, the first statewide *pro bono* referral service in South Dakota;

Now, Therefore, Be It Resolved that the Board of Directors of Dakota Plains Legal Services in an effort to help close the justice gap in South Dakota, supports and encourages private attorney involvement with Dakota Plains Legal Services and will endeavor to:

- Collaborate with other organizations and entities in South Dakota to develop and facilitate educational efforts that demonstrate the extent of the unmet civil legal need and encourage collective responsibility with South Dakota by both public and private entities to help meet this unmet civil legal need;
- Collaborate with other organizations and entities in South Dakota to develop effective strategies for engaging lawyers in *pro bono* representation and other services that benefit low-income persons;
- Consider including in that collaboration organizations and entities such as the State Bar of South Dakota and its Access to Justice Program; all local South Dakota local bar associations; the University of South Dakota School of Law; private law firms and practitioners; corporate counsel and law departments; government and military law offices; and state and federal courts, among others; and
- Develop strategies that encourage *pro bono*, including creative recruitment methods and delivery models, attorney practice and continuing legal education rules, and training, mentoring, support, and recognition of volunteers.

Be It Further Resolved that the Board of Directors of Dakota Plains Legal Services will promote, support and encourage private attorney involvement initiatives by publicizing and recognizing private attorney involvement in the work of Dakota Plains Legal Services and by collaborating with national, state and local organizations to create opportunities for such publicity and recognition.

Adopted by the Board of Directors of Dakota Plains Legal Services on July 20, 2007.


Joe White Bear Claws
Board Chair

