



**LEGAL SERVICES CORPORATION**

**Office of Program Performance**

**Final Report**

**for**

**Program Quality Visit**

**to**

**LEGAL SERVICES OF THE VIRGIN ISLANDS, INC.**

**Recipient No. 254000**

**September 8 – 11, 2014**

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**LEGAL SERVICES OF THE VIRGIN ISLANDS, INC.**  
**Program Quality Report**

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## **INTRODUCTION**

On September 8 – 11, 2014, the Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted an on-site program quality visit to Legal Services of the Virgin Islands (LSVI or the program). The purpose of the visit was to assess the quality of LSVI's legal work and its management, administrative, and legal work systems. The team consisted of three OPP program counsels: Willie Abrams (team leader), Lewis Creekmore, and Angela Thornton.

Through its program quality visits, OPP seeks to assess the extent to which LSC grantees are providing the highest quality legal services to eligible clients. In performing its evaluation of the grantee's delivery system, OPP relies on the LSC Act and regulations, LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. The team considered LSVI's grant proposal submitted for the 2015 competition cycle, prior grant renewal narratives, case and other services reports, and other reports or documents submitted by LSVI to LSC over the past three years. Also, as a part of the assessment, the team reviewed numerous documents submitted by LSVI in advance of the visit, including a survey of staff and writing samples submitted by advocates. OPP's assessment considered LSVI's service delivery model, last needs assessment, most recent priority statements, accessibility to clients and low-income populations, office and staffing structure, intake system, outreach to low income populations, engagement with low income populations, language access, legal work management and supervision systems, quality and quantity of legal work, staff training, experience and reputation of the program and staff, private attorney involvement, use of technology, program management, board governance, leadership, resource development, strategic planning, and coordination within the territorial-wide delivery system.

The on-site visit began on the morning of September 8, 2014, with a video conference between the two offices during which the team members and program leadership and the board president were introduced, and the program provided an overview of its ongoing work, significant accomplishments and challenges. During the course of the on-site visit, the team conducted in-person interviews of the program's executive director, board president, board officers and other client and attorney members, administrative and management staff, advocacy and support staff, and access to justice and other key partners. Also, during and following the on-site visit dates, the team conducted telephone interviews of judges and representatives from social services and community organizations with whom LSVI and its staff frequently interact. The visit concluded with an exit conference at which the team discussed its preliminary observations regarding the program's strengths, challenges, and opportunities for improvement.

## **SERVICE AREA and PROGRAM OVERVIEW**

Legal Services of the Virgin Islands), founded in 1969, is a private nonprofit corporation organized to provide legal services to low-income and disadvantaged persons residing in the territory known as the United States Virgin Islands—consisting of the islands of St. Croix, St. Thomas, and St. John. Since its founding, the program has received Office of Economic Opportunity and LSC funding continuously. LSVI's basic field service area is designated VI-1.

The United States Virgin Islands (hereafter, the Virgin Islands or VI) consists of three islands and contains a land mass of 133 square miles, an area twice the size of the District of Columbia. The program maintains staffed offices on St. Croix and St. Thomas. The St. Croix office, which also houses the program's central administration, is located in Christiansted, one of the two towns on St. Croix. The island of St. John is located four miles east of St. Thomas. The island does not have an airport; thus, access to the island is by boat. Ferry service runs hourly between the two islands.

According to the U.S. Census, the Virgin Islands saw a net loss of people at the poverty level from 2000 to 2010, but the extent and severity of poverty remained unchanged. As the decline of total poverty population has been phased into federal legal aid funding allocations, LSVI has lost nearly 50% of its LSC funding in the last three years. In addition, the program expects to experience a significant decline in its 2015 non-LSC funding as a result of substantial budget cuts by the territorial government.

U.S. Census data show a total population of 105,170 and a total poverty population of 23,623 (22.5%) for the Virgin Islands: St. Croix has a total population of 49,972 and 13,068 (26.2%) poverty population; St. Thomas has a total population of 51,031 and 9,929 poverty population (19.5%); and St. John has a total population of 4,167 and 626 poverty population (15.0%).<sup>1</sup> According to the program, the service area has a high incidence of unemployment, physical disability, poor educational achievement, little public transportation, and a failing economy and government budget deficits. Beginning in 2012, the territorial economy suffered a major blow when the Hovensa Refinery began shutting down, eliminating several thousand middle class jobs in the process. At the time, Hovensa was one of the world's largest petroleum refineries and contributed nearly a quarter of the Islands' GDP.

In terms of race and ethnicity, the service area's poverty population is composed of 76.0% Afro-Caribbean (black), 15.6% white, 1.4% Asian, 2.1% mixed, and 4.5% other. After English, the most prevalent languages spoken in the service area are two English-based dialects (Creole and Crucian), Spanish, French (including various French Creole dialects), and Spanish (including Spanish Creole).

LSC 2014 basic field funding for LSVI is \$151,995 (10% of the program's projected annual budget of \$1,310,996) compared to \$253,400 in 2013 (18.5% of the annual budget of \$1,369,212). The program does not receive migrant or Native American grants.

At the time of the visit, LSVI had a total of 11 employees, including an executive director, a director of finance, five attorneys, and four legal support staff. The St. Croix office houses program administration as well as client services.

The LSVI's mission is "to access justice, protect rights and educate people in poverty in order to empower them to move toward self-sufficiency." The program recognizes that the Virgin Islands have developed a good civil legal system that thousands cannot afford to use.

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<sup>1</sup> These population data are from 2009, the most recent available for the Virgin Islands.

## SUMMARY of FINDINGS

LSVI is led by an executive director with more than 40 years of experience. He is planning for retirement and is preparing the program for executive leadership transition. While the mission of the program is understood and shared by board and staff, they all agree that the program has lacked the financial and staffing resources to fully carry out the mission. The board expressed great confidence in the executive director and the program's management and administrative staff.

The program would benefit from greater involvement by the board of directors in the areas of strategic and succession planning and resource development. While a staff-wide retreat was held in 2012, that process was not comprehensive and it did not result in a complete written product with concrete action steps, timelines, and benchmarks to ensure that articulated goals were accomplished. An overall observation of the team and LSVI's partners is the need for a comprehensive strategic planning process. The team would add that a formal succession planning process must be an essential element of the strategic planning. The program's executive director and board members' willingness to undertake a far reaching formal and comprehensive strategic planning process enhances the team's confidence in LSVI's path forward from the present challenges.

The locations of program offices are appropriate. LSVI's intake remains the same as in 2007—an in-person intake model that permits initial contact by telephone for purposes of making intake appointments. The program plans to explore developing limited telephone intake and making any necessary technology changes that will enhance its intake process.

LSVI does not have a written Limited English Proficiency (LEP) policy, and has one bilingual (Spanish-speaking) staff in its St. Croix office and one bilingual (French Creole-speaking) staff in the St. Thomas office.

LSVI conducts some outreach and community education events at domestic violence centers and community agencies, and other organizations (governmental and non-governmental). However, in-person meetings and presentations are not supplemented by materials and information on the program's websites. In fact, the LSVI websites are not functioning at present. The program agrees that websites are essential tools for providing the client community and the general public ready access to reliable information about LSVI and its services and helpful legal information.

LSVI's attorneys are experienced, competent, and knowledgeable of the areas in which they handle cases and at the particular level of representation undertaken. They practice in a variety of forums and provide quality legal representation in the Virgin Islands' courts and administrative agencies.

The program's legal work is done by general poverty law practitioners. Domestic violence is the only specialty grant or unit. Oversight of legal work is done by the branch office managing attorneys and the director of litigation.

There is a Standards of Practice Manual for attorneys, addressing the program's legal representation and advocacy expectations along a continuum that starts with the initial client interview, case selection and rejection, initial actual investigation, initial legal research, conducting litigation with sufficient skill and proficiency, discovery, trial preparation, negotiations, and appeals. There are no written supervision guidelines for legal work supervisors.

LSVI does not have detailed written intake policies and procedures. Because the program is so small, intake is so traditional, and intake staff has been so stable, the lack of written policies and procedures has not presented significant problems. However, the likelihood of future staff turnover and the prospect of significant technology acquisitions and upgrades should serve as a catalyst for developing an appropriate intake manual during the course of strategic planning.

The nature of law practice in Virgin Islands requires brief and memorandum writing. The writing samples submitted by LSVI advocates were of good quality and demonstrated solid communication skills, advocacy, and research.

LSVI is a productive program. Over the last three years (2011-2013) its total closed and extended closed cases per 10,000 poor persons (hereafter, per 10K) exceeded the national median. With the exception of 2013, when it closed 30 contested cases per 10K compared to the national median of 26 cases per 10K, LSVI's total contested cases were, on average, 75.8% of the national median in the last five years.

Private attorney involvement (PAI) in the Virgin Islands appears to be a challenge of herculean proportions. There is no external pro bono program and little to no pro bono culture to speak of. As a result, LSVI's PAI effort is limited to a small number of contract attorneys (compensated PAI). PAI is not 100% of any single staff's responsibility; it is diffused between the executive director, a legal support staff/PAI coordinator, and branch office managing attorneys.

Both LSVI offices engage in some community legal education activities. Also, LSVI is engaged with others whose activities have a significant effect on the low-income people such as the Supreme Court of the Virgin Islands, the U.S. District Court, the Virgin Island Bar Association, government agencies, social service agencies, and other nonprofits in the territory.

The board of directors provides appropriate oversight, support and leadership. Members are committed to strategic planning in 2015 with assistance from, among others, the University of the Virgin Islands and its president. In addition, members acknowledge that resource development needs to be an essential component of the strategic planning and that they, as a board, need to actively participate.

In addition to strategic planning, the LSVI board and executive director will undertake leadership succession planning to develop a roadmap for an eventual leadership transition within the next few years.

LSVI appears to have good administrative systems. The program is very small—a total of 11 employees, including the executive director, at the time of the visit. The resources devoted to

management, human resources, and financial administration functions are represented by the positions of executive director, director for finance and administration, director of litigation, and managing attorneys.

The LSVI executive director is well-known throughout the Virgin Islands justice community as an active leader and helpful partner. He is highly respected by the board, staff, the legal community, and in the nonprofit sector.

Within the constraints of the program's current financial and staffing resources, the delivery structure is reasonably coherent. The program is striving to cultivate the equivalent of a state justice community in the territory of the Virgin Islands.

## **FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS**

**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.**

### **Periodic legal needs assessment**

*Finding 1: LSVI's most recent needs assessment was completed in 2007.*

LSVI's last legal needs assessment was completed in 2007. A new assessment was planned for 2012 and then rescheduled for 2014. Subsequently, the planned 2014 assessment was appropriately delayed due to unavoidable staff cut-backs, scheduling conflicts among the remaining staff and board members, and a desire to conduct the assessment as part of a strategic planning process.

The 2007 assessment led the program to conclude that the most critical legal needs were in the following areas:

- a. Health care including medical assistance program, lack of affordable healthcare, access to mental health care and Medicare.
- b. Family law, including domestic abuse, support, divorce/separation/annulment, custody and visitation.
- c. Employment including job safety/health conditions, wage issues, unemployment compensation and wrongful discharge.
- d. Immigration, including work authorization as an income maintenance issue and access to public benefits and services.
- e. Education including the need to provide quality public schools for the youth of the territory.
- f. Housing, including access to public housing, habitability issues in public housing, subsidized housing, landlord/tenant/eviction prevention, and home foreclosures defenses.
- g. Public benefits, especially food stamps and TANF.
- h. Public Utilities and utility shut off.

In LSC's report on the 2007 on-site visit to LSVI, we noted that the assessment conducted by the program earlier that year was a thoughtful process reasonably designed to enable the program to be as effective as possible in staying focused upon, and addressing, the most pressing legal needs of the low-income population in the service area. The program sought the views of clients, client-eligible persons, social service providers, the judiciary, the bar, program staff, and board members through two different types of survey instruments. In addition, among other things, LSVI conducted two focus groups with community organization and agency representatives, and held a number of meetings with program staff and board members.

The LSVI executive director and board plan to proceed with strategic planning and new comprehensive needs assessment during 2015. They acknowledge and appreciate the changing environment of the service areas—including, but not limited to the closing of the Hovensa Refinery in 2012 and the loss of several thousand middle class jobs; the U.S. Census's determination that the Virgin Islands experienced a net loss of low-income residents from 2000 to 2010; a near 50% cut in LSC funding; a potential cut in funding from the government of the Virgin Islands;<sup>2</sup> and further loss of staff.

**Recommendation I.1.1.1.**<sup>\*</sup> *LSVI should undertake its next comprehensive needs assessment as part of a strategic planning process to provide major direction for the program in the face of the urgent challenges of the service area.*

**Recommendation I.1.1.2.** *LSVI should include focus groups and other face-to-face discussions with potential clients and representatives of appropriate community organizations and governmental agencies as part of the legal needs assessment.*

**Recommendation I.1.1.3.**<sup>\*</sup> *LSVI should ensure that its strategic partners have meaningful opportunities to provide input into the strategic planning and needs assessment processes, including review of proposed priorities prior to formal adoption.*

**Recommendation I.1.1.4.** *To enhance input from social service agencies, the courts, private attorneys and bar association, strategic partners, program staff, and board members, LSVI should explore the use of technology tools such as SurveyMonkey to facilitate easy compilation of data.*

### **Setting goals and objectives, developing strategies, and allocating resources**

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<sup>2</sup> During the on-site visit, the team was told that the Virgin Islands government was facing a \$40 million deficit for 2014 and was projecting nearly \$70 million deficit for 2015.

<sup>3</sup> In this report, recommendations are numbered as follows: The Roman numeral references the Performance Area followed by the Criterion number, the finding number, and lastly the recommendation number that pertains to the particular finding. There are two levels of recommendations in this report, Tier Ones and Tier Twos. Recommendations that are indicated with an asterisk are Tier One Recommendations and are intended to have a direct and major impact on program quality and/or program performance. In LSVI's next grant renewal and/or competitive grant application, the program will be required to report what actions or activities, if any, LSVI has undertaken in response to Tier One Recommendations.

***Finding 2: LSVI intends to engage in a strategic planning process that will provide a roadmap for the program to move forward to address the pressing legal needs of the service and meet the challenges posed by anticipated funding challenges.***

Prior to the on-site visit, the LSVI leadership, board, and staff had begun discussing strategic planning and the need to develop a comprehensive roadmap for responding effectively to the critical and most pressing problems of the service area. The program has made contact with the ILOE at the University of the Virgin Islands for assistance and the university has indicated it will help.

As adopted by the LSVI board in April 2014, the program's current priorities consist of ten broad areas: family law, maintaining economic stability, health, housing, education, economic development, consumer law, elderly and disabled, community legal education, and miscellaneous and emergency cases. To implement the priorities and provide guidance to staff, the LSVI priority statement lists examples of the legal problem categories and types of cases acceptable under each broad priority area.<sup>4</sup> Interviews with staff and board members confirmed an overall awareness of the program's broad priority areas and case acceptance policies.

On their face, LSVI's legal priorities are broad enough to address the basic needs of safety, health, shelter, food, education, and work of the service area's low-income residents within the constraints of the program's financial and staffed resources. Because the program has not yet undertaken a comprehensive strategic planning process, case acceptance results appear to be the product of the flow of work that comes in through intake.

The LSVI board of directors reaffirms the program's priorities each year. Initially adopted following the 2007 needs assessment, re-adoption of the program's priorities has occurred with little direct input from community and governmental partners. The community engagement activities by the executive director and other advocates provide some feedback and information on new and emerging needs in the service area. Because—as the program's leadership, staff, and board readily acknowledge—the pressing needs of the service area far outstrip the program's resources and current service delivery capacity, it is urgent that LSVI proceed with the contemplated strategic planning process.

***Recommendation 1.2.2.1.\* In the context of strategic planning, the LSVI management, board, and staff should develop detailed case acceptance guidelines to implement the program's priorities that, among other things, take into consideration the gap between community needs and program resources.***

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<sup>4</sup> For example, family law priority statement contains the following: "Family law cases involving preservation, support and safety of families and individual family members. Priority attention will be given to matters involving domestic abuse and other family law matters where legal action is required to protect the health, safety and welfare of family members."

The housing priority statement reads: "To assist low income persons in housing cases involving the acquisition, preservation or access to housing for homestead and shelter. This includes defense of foreclosures and evictions, ameliorating dangerous environmental conditions and other landlord/tenant disputes."

**Recommendation I.2.2.2.** *LSVI should widely publicize the program’s adopted priorities to the various client communities, social service agencies, the judiciary, the bar associations, and appropriate government agencies.*

**Recommendation I.2.2.3.\*** *After case acceptance guidelines are adopted, LSVI should conduct repeated briefings on and written explanations of the guidelines for its strategic partners and all significant referral sources.*

**Recommendation I.2.3.1.\*** *Following appropriate training, the board should launch a strategic planning process, led by the executive director, with meaningful input from staff, representatives of the client populations, and representatives from LSVI's strategic partners.<sup>5</sup>*

**Recommendation I.2.3.2.\*** *In the context of strategic planning, LSVI should develop implementation strategies for its adopted priorities that, in addition to goals and objectives, state measurable or verifiable outcomes for clients and client populations as a whole.*

### **Implementing, evaluating, and adjusting, goals and strategies**

***Finding 3: LSVI informally evaluates the effectiveness of its delivery strategies and work on an ad hoc basis.***

LSVI’s leadership and advocates periodically discuss the effectiveness of the program’s delivery strategies and work. The discussions do not consistently involve an assessment of results actually achieved in the program’s cases and advocacy activities in comparison to the outcomes originally intended for the work undertaken. The exception is the program’s responses to specific inquiries contained in the LSC Request for Proposals for the Provisions of Civil Legal Services (RFP) regarding “outcomes met for previous priorities,” which are addressed by LSVI at three-year intervals.

The LSVI program-wide staff retreat in 2012 led to the development of a staff committee to develop outcome tools to measure the program’s effectiveness. The retreat framed the issue as “how do we know if we are effectively fulfilling LSVI’s mission statement?” The list of tools cited by the retreat included mailing survey questions to clients and conducting telephone surveys. The LSVI staff retreat reflected the observation in the ABA Standards’ commentary that “[t]he overall goal of [evaluating the efficiency and effectiveness of one’s operations and response to the needs of the service area] should be to support forward-looking and judicious management which attends to the organization’s weaknesses and reinforces its strengths.”

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<sup>5</sup> It is critical that the board and staff be involved in the strategic planning effort. It is also essential that input from the service area’s client populations and the program’s strategic partners be sought. Because of the time commitment involved, some legal aid organizations have found that it may be preferable to involve a committee of board members (which should definitely include client members) in the actual planning process with the final plan going to the full board for approval. In any case, the final plan must be a document that the LSVI board and staff take ownership of and are prepared to implement. Information on strategic planning may be found on the LSC online library web site located at [www.lri.lsc.gov](http://www.lri.lsc.gov). In addition, other information on strategic planning can be found at [www.managementhelp.org](http://www.managementhelp.org), a site associated with the Management Assistance Program for Non-Profits, [www.mapfornonprofits.org](http://www.mapfornonprofits.org).

Standard 2.11 (On Provider Evaluation), *ABA Standards for the Provision of Civil Legal Aid* (2006).

The team commends LSVI for establishing the staff committee on outcomes. The committee's work, too, should be conducted in the context of the program's strategic planning. As it proceeds with its assigned tasks, the committee should keep ABA Standard 2.11 in mind, along with relevant sections of the *LSC Performance Criteria*.<sup>6</sup>

**Recommendation I.4.3.1.\*** *LSVI should develop a formal internal evaluation process to ensure a more critical assessment of the program's work, including a comparison of results actually achieved in cases and advocacy with the outcomes originally intended.*

**Recommendation I.4.3.2.** *In crafting a formal internal evaluation process, and to avoid recreating the wheel, LSVI should consult the NLADA publication, Measuring Outcomes—Overview of Some (of Many) Efforts, prepared by Lydia C. Watts, Esq., Director of Quality and Program Enhancement (September 2013).*

**Recommendation I.4.3.3.** *LSVI should ensure that its communication and liaison with various stakeholders and partners solicit, in an intentional way, informed feedback regarding the effectiveness of the program's delivery strategies and work.*

**Recommendation I.4.3.4.** *The established LSVI staff committee on outcomes should consider developing an Advocate Survey Instrument to facilitate the internal evaluation of its legal work and advocacy, which should be reasonably designed to, among other things, compare the results actually achieved in the program's work and the outcomes originally intended, as recommended by the *LSC Performance Criteria*.*

**Recommendation I.4.3.5.** *In addition, any advocate survey instrument developed by the staff committee on outcomes should evaluate, among other things, the extent to which the program's work has had a beneficial effect on systemic legal problems in the service area, the extent to which the program's work helped clients maintain economic stability, and the extent to which program activities promote economic development and opportunities for low-income families and individuals.*

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

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<sup>6</sup> Especially, the language explaining that LSC's performance criteria "are driven by a vision that a highly effective program [continually engages] in a dynamic process involving planning, delineating objectives, working to achieve those objectives, assessing results, and incorporating the resultant experience and learning into plans for future work.... [and that] the most effective programs are constantly in processes of motion and change and are innovative and experimental. They continually adjust their approaches and strategies in response to new circumstances and ongoing judgments about which legal needs are most critical, which avenues do and do not work, what resources are available, what to do about changed laws or court precedent, and many other factors. The most effective programs constantly engage in informal assessment, and periodically incorporate more formal evaluative processes." *LSC Performance Criteria*, at p. 4.

## **Dignity and sensitivity, including intake**

***Finding 4: LSVI strives to conduct its work in a way that affirms and reinforces the dignity of its clients and applicants for its services.***

LSVI staff and board members have a strong sense of respect for clients, and recognize the need to treat them with dignity. The program's advocates receive high praise for their commitment to the low-income population. The program is struggling to find the best way to provide maximum services consistent with that commitment, while operating with limited resources. At the same time, the team believes that finding a way to say "no" quickly and clearly, when resources are insufficient to help everyone, is in the long run more respectful of clients than a prolonged process ultimately resulting in a turndown.

***Finding 5: LSVI'S current approach to intake predates the LSC 2007 on-site visit. While the intake system is operated with a sensitive and respectful concern for applicants and clients, the system represents a significant challenge.***

With few exceptions, the LSVI intake system is the same as it was in 2007 at the time of the joint OCE-OPP visit. Initial reception and screening are done by two legal support staff in each office. To obtain services, applicants access the program by telephone or walk-in. While the program's case management system, TIME 3.05, would allow the support staff to enter applicant data in real time, it is LSVI's practice not to do so at the time of the initial call to obtain an intake appointment. Instead, the applicant's eligibility data is only entered following the subsequent in-person intake appointment.

There is no telephone intake in the classical sense, just telephonic screening for financial eligibility, alien eligibility, case priorities, case restrictions, and program-wide conflict checks. The addition of conflict checks program-wide at the initial telephonic contact is a change from 2007. Online intake is not offered and applicants may not apply for assistance via email. As was the case in 2007, affording all eligible applicants an in-person intake interview is one of LSVI's core values.

An applicant who is determined financially eligible, and whose case is within the program's priorities, receives an office appointment for an in-person intake interview. Except for special circumstances, applicants are required to travel to the program's office for their intake interview.<sup>7</sup> Each office schedules 10-15 intake interviews on Monday and Tuesday of each week. Depending on the availability of intake appointment slots, an applicant may wait one to two weeks for an intake appointment. Intake interviews are conducted by attorneys,<sup>8</sup> who may provide advice and limited service at the time. Cases suggesting extended service must go through a case acceptance meeting.

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<sup>7</sup> LSVI's policy requires that an applicant who presents an emergency be seen immediately, depending on the availability of an attorney. Also, staff are required to conduct out-of-office visits to eligible applicants in the hospital, at elderly housing facilities, and the homes of other persons who cannot travel to the branch offices.

<sup>8</sup> At the time of the September 2014 visit, LSVI did not employ any legal assistants or paralegals.

Following the intake interviews, the legal support staff creates a hard copy case file that is delivered to the director of litigation (in the St. Croix office) or to the managing attorney (in the St. Thomas office) for review at the next case acceptance meeting.

The two offices hold separate weekly case acceptance meetings. The St. Croix office's meetings are held each Thursday and the St. Thomas' meetings are held each Wednesday. Case assignments are recorded and notated on paper and kept in a loose leaf binder, one for each office. Applicants are notified of case acceptance decisions within days of each meeting.

***Finding 6: Intake-related technology improvements that could make client engagement more efficient and effective will be addressed as an essential element of strategic planning.***

Telephone calls to the St. Croix office cannot be answered in the St. Thomas office and vice versa. The current telephone system does not have the capacity for voice mail for intake calls. The system does not include capacity for automated attendant technology, automated call distribution, computer telephony integration, call routing by language, call routing by geographic area, TTY or relay service for persons with speaking or hearing disabilities, capacity to review wait time and dropped calls, or recorded information while callers are waiting or after hours.

***Recommendation II.1.5.1.\**** *Within the context of strategic planning, LSVI should evaluate intake as it is done now and how it could be improved, including the acquisition and use of enhanced technology.*

***Recommendation II.1.5.2.*** *LSVI should act on the language in its 2014 Technology Plan that that "telephone intake to a limited degree" is being explored. Facilitating coordinated intake between the two offices should be a priority.*

***Recommendation II.1.5.3.*** *In addition to telephone intake, LSVI should explore the development of on-line intake.*

***Recommendation II.1.5.4.\**** *LSVI should dispense with handwritten intake eligibility notes and enter applicants' intake-related data into the TIME case management system in real time.*

### **Engagement with, access and utilization by the low-income population**

***Finding 7: LSVI is striving to serve the limited English proficient (LEP) populations in the service area.***

LSVI has not developed a written Limited English Proficiency Plan (LEP).<sup>9</sup> While the official and most widely spoken language in the Virgin Islands is English (75%), Spanish is spoken by approximately 17% of the population and French and French Creole by approximately seven percent. The team heard that Spanish speakers are the fastest growing LEP population. As to

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<sup>9</sup> An LEP person, for purposes of this discussion, is one who cannot speak, read, write or understand the English language at a level that permits them to interact effectively with legal services providers, healthcare providers, and social service agencies.

bilingual staff, LSVI has one Spanish-speaking employee (legal support staff) in the St Croix office and one French Creole-speaking employee in the St. Thomas office.

LSVI does not subscribe to Language Line. Instead, the program's staff actually relies on the Spanish-speaking and French Creole-speaking staff for intake and communicating with clients. When the bilingual staff are not available, non-English speaking applicants are told to bring an interpreter with them. In some instances, LSVI turns to one of its partner organizations for language interpretation and translations. The Women's Coalition and the Family Resource Center were cited as examples.

The team notes that the executive director, board members, and staff all acknowledge the need for language diversity within the program. While the program has been unsuccessful in its language recruitment efforts thus far, LSVI is committed to seeking language diversity in all new hiring opportunities in the future.

***Finding 8: The program's two offices are appropriately located on the two most populous islands and facilitate broad access and utilization by the client populations.***

LSVI operates two staffed offices located on the two major islands comprising the overwhelming majority of the service area. The St. Croix office houses the central administrative staff and the client service staff. At the time of the visit, the central administrative staff consisted of the executive director, the director of finance and administration, the director of litigation, the legal support/PAI coordinator. The director of litigation and the legal support/PAI coordinator also perform duties in the St. Croix office's client service component. In effect, the wall separating central administration and client service in St. Croix is a very flexible one, which is appropriate given the size of the staff program-wide.

The St. Croix office's client service component was staffed by a managing attorney (who also served as director of litigation program-wide), two staff attorneys, and two legal support staff. Despite some recent layoffs, the current advocate staffing for client service in St. Croix represents an improvement over 2007 when the office had just one full-time attorney and a part-time PAI coordinator/staff attorney. The St. Thomas office was staffed by a managing attorney, two staff attorneys, and two legal support staff. In 2007 the St. Thomas office's advocate staff included a managing attorney, three staff attorneys, and a legal assistant/paralegal. Historically, the program's attorney staff (even counting the executive director) has never exceeded nine. The number of advocates employed by the program is reasonable in view of available financial resources. As it seeks to increase its resources, LSVI should recognize the need for a corresponding increase of its advocate staff.

***Finding 9: LSVI engages, directly and indirectly, with the client populations and communities throughout the service area.***

LSVI is known throughout the service area by social services and governmental agencies. They view the program as an important and critical resource, not only for the legal services LSVI provides directly to low-income residents, but for the societal impact that redounds to the benefit of the Virgin Islands as a whole, and for the program's role as a knowledgeable and collaborative

partner on many levels. The social services and governmental agencies are painfully aware of LSVI's funding and staffing challenges. They agree that LSVI's clients are their clients, too. They all expressed a willingness to join LSVI in a formal comprehensive strategic planning process to identify future strategic directions and craft a roadmap to accomplish agreed upon goals and objectives. The University of the Virgin Islands is included among the program's strategic partners.

Apart from communication and collaboration with social services and governmental agencies, LSVI staff conducts outreach and community education events at senior centers, social services and governmental agencies. The service area does not have client or grassroots community organizations in the classical sense, as we noted in the report on the 2007 visit.

From its St. Croix office, LSVI conducts outreach intake in Frederiksted, the second major city located at the extreme western end of the island of St. Croix. Frederiksted contains a large concentration of the island's poverty population. The St. Thomas office conducts outreach intake on the island of St. John, which contains a small poverty population. Because it is the custom and practice for residents of St John to travel frequently to St. Thomas, most of the intake for St. John occurs in St. Thomas.

**Recommendation II.2.9.1.** *LSVI should continue its efforts, through outreach and other means, to disseminate legal information aimed at those low-income persons who are most isolated or vulnerable or who have been disproportionately underserved.*

**Recommendation II.3.7.1.** *When resources become available, LSVI should hire a bilingual intake worker and/or advocate fluent in Spanish.*

**Recommendation II.3.7.2.** *LSVI should continue to monitor the growth of the limited English proficient Spanish and other populations.*

**Recommendation II.3.7.3.\*** *LSVI should charge all program intake staff and advocates with ensuring that applicants' and clients' primary language and any need for an interpreter are noted in the case file and that attorney-client privilege and the need for confidentiality are thoroughly explained to applicants, clients and interpreters.*

**Recommendation II.3.7.4.\*** *When upgraded, the LSVI telephone system should include the capability for non-English speakers to access Language Line to communicate their need for assistance or other messages.*

**Recommendation II.3.7.5.** *LSVI should ensure that all of its informational materials about the program and community education materials are available in English and Spanish.*

**Recommendation II.3.7.6.** *Upgrade and modernization of the program's websites should include English/Spanish web pages to allow all members of the client community to access reliable information about the program's mission and services.*

**Recommendation II.3.9.1.** LSVI should continue striving to have advocates participate in significant community engagement and collaboration activities so that the program can incorporate the perspectives of the client population in its work.

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

**Legal Representation**

***Finding 10: LSVI's advocate staff is reasonably diverse and sufficiently experienced to implement the goals, objectives, and strategies adopted for the program's legal work.***

At the time of the visit, LSVI had six attorneys program-wide, excluding the executive director. The attorneys have an average of 21 years of experience in the legal profession and an average of 9.5 years with the program. Historically, the attorney staff has been reasonably diverse and experienced, consistent with the relevant workforce in the Virgin Islands. They have excellent reputations among the judges, governmental agencies, social service agencies, the bar association, and other nonprofits interviewed. They are viewed as caring professionals and competent advocates.

The St. Croix managing attorney at the time of the visit had 34 years of experience in the legal profession and 17 years with LSVI. The St. Thomas managing attorney has 12 years of experience in the legal profession and 10 years with program.

With the exception of the attorney position that is funded for domestic violence work, LSVI's legal work is not organized by specialty units or projects. This is a reasonable approach in view of the overall size of the program's advocate staff. On an informal basis, however, advocates rely on their colleagues throughout the program who are known for the specialized knowledge, expertise, and practice skills they have developed in particular areas. The LSVI attorney staff possess the requisite skills and substantive poverty law knowledge to effectively represent low income persons.

The only other nonprofit provider of civil legal assistance in the Virgin Islands is the Disability Rights Center (DRC).<sup>10</sup> Its services are limited to specialized group of people and a specialized area of the law. Nevertheless, the DRC makes a significant, contribution to the wellbeing of low-income and disadvantaged persons. Considering LSVI alone, the service area contains just one civil legal aid attorney for every 3,374 poor persons who are generally eligible for LSVI's services. If the two attorneys from the DRC are included, the ratio is one attorney for every 2,625 poor persons.

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<sup>10</sup> The Disability Rights Center of the Virgin Islands' main office is on St. Croix. Like LSVI, it also maintains a St. Thomas office. The DRC's staff includes two attorneys—the executive director and a managing attorney. Both are former staff lawyers of LSVI.

***Finding 11: LSVI's expectations for legal representation and advocacy are stated in a document containing general standards of practice for attorneys. There is no comparable written guidance for the legal work supervisory responsibilities of managing attorneys.***

Oversight of legal work is the primary responsibility of the managing attorneys. The executive director has oversight responsibility for the work of the managing attorneys. At the time of the visit, the St. Croix managing attorney also served as the program's litigation director to coordinate backup and support across all substantive areas and in appropriate cases. The litigation director left the program following the visit and we are informed that LSVI has hired a new litigation director.

The current job duties for the litigation director's position include, among other things, coordinating and directing the program's litigation generally, coordinating significant case litigation, and establishing and maintaining the program's plan for significant case work.<sup>11</sup> It is important that the litigation director actively coordinate the program's advocacy in all of its offices.

LSVI has written standards of legal work practice that provide advocates practical guidance for effective lawyering. The attorneys are familiar with the standards and follow them. While managers or supervisors can readily rely on the standards to assess the quality of actual case handling by an attorney, the standards themselves do not provide straightforward guidance on the supervisory responsibilities of managing attorneys. During the visit we did not hear any reports of legal work supervision lapses. Nevertheless, we encourage LSVI to review some of the standards of supervision used by other civil legal aid providers. The *ABA Standards for the Provision of Civil Legal Aid* (August 2006) provide a compelling rationale for supervisory standards,<sup>12</sup> which LSVI should consider.

Historically, the program's areas of representation, in rank order, have been family law, housing, miscellaneous cases (wills/estates, advance directives/powers of attorney, tort defense), employment, income maintenance (mainly SSDI and unemployment), consumer/finance, individual rights, and juvenile (minor guardianship, emancipations).

The team heard some concern that LSVI is too restrictive regarding the level of representation provided in a few subject matter areas that seem to be critical for low-income individuals and families—e.g., education, health care, and consumer/finance. The strategic planning process will present an opportunity for program management, staff, and board to assess anew the need for LSVI to have a greater involvement and presence in critical areas of the law to advance the interests of the client populations where there may be no other provider or other nonprofit doing so.

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<sup>11</sup> As LSVI reviews its job descriptions in the context of strategic planning, a helpful article on crafting a vision for the position of litigation director in the civil legal aid context appears in the Summer 2011 issue of the MIE Journal. See "Help Wanted: Litigation Director" by Jen Gaughan, Ed Marks, Dorene Kuffer, Abigail Turner, Diana C. White and Lisa Krisher.

<sup>12</sup> See ABA Standard 6.3 (On Responsibility for the Conduct of Representation).

***Finding 12: LSVI provides its advocates reasonable training, access to a variety of practice manuals and other legal advocacy materials, and automated legal research.***

LSVI advocates are committed to constant learning and view education as a life long journey. In the past the program has afforded advocates reasonable training and continuing legal education opportunities. Staff took advantage of these opportunities. Nevertheless, a few staff expressed a strong desire for more extensive high quality litigation training.

Advocates reported attending training sponsored by the Virgin Islands Bar Association, the District Court's (federal) quarterly brown bag luncheon meetings, the ABA/NLADA Equal Justice Conference, the NLADA Annual Conference, the National Consumer Law Center (NCLC) Conference, ABA domestic violence training, National Institute of Trial Lawyers (NITA) training, and a variety of local CLE courses.

LSVI also strives to satisfy some training needs of its staff by using "video conferencing, DVDs, podcasts, legal meeting and other online resources." All advocates have access to computer assisted research through Lexis and the Internet is available from all computers. LSVI advocates have access to necessary law library and research resources. Advocates also reported being active participants in listservs on a variety of substantive legal issues.

***Finding 13: Over the last three years, the overall quantity of legal assistance provided by LSVI has exceeded the national median as to total closed cases and extended service cases per 10,000 poor persons. Contested cases exceeded the national median last year and have been 75% or higher the previous three years.***

Over the last three years (2011-2013) LSVI's total closed cases per 10,000 poor persons (hereafter, per 10K) exceeded the national median. The program's performance over this period was, on average, 130% of the national median. The program's extended closed cases per 10K exceeded the national median during the last five years (2009-2013). On average, LSVI's performance was 121% of the national median. Over the last five years (2009-2013), LSVI's closed contested cases exceeded the national median in only one year (2013). That year, the program closed 30 contested cases per 10K compared to the national median of 26 cases per 10K. For the four years in which the program's performance was below the national median, LSVI's total contested cases were, on average, 75.8% of the national median.

In preparation for the program quality visit, LSVI submitted to LSC an open case list for all six of the program's case handling attorneys,<sup>13</sup> excluding the executive director. The combined lists of open cases show a total of 259 open cases as of July 31, 2014. The average caseload for the six attorneys was 43.

***Finding 14: LSVI has developed a culture among its advocates that they are to be persistent and creative about their representation and advocacy work. The overall quality of the legal work by LSVI's advocates is very good.***

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<sup>13</sup> LSVI did not have any paralegals or legal assistants at the time of the on-site visit.

LSVI's advocates are very competent and knowledgeable of the areas in which they handle cases. Their representation of clients commands the respect of the judiciary, private attorneys, government and social services agencies, and the program's board. The program's advocates are viewed as committed, caring professionals who value their work and clients.

In preparation for the visit, advocates were asked to produce writing samples that represented some of their best work within the last 12 months. LSC received a writing sample from all six of the program's case handling attorneys. Three of the six writing samples pertained employment issues.<sup>14</sup> The remaining three included a family law matter, a home mortgage foreclosure, and a real property partition and accounting case. The samples covered the spectrum as to factual complexity and displayed good legal writing and research skills.

Many of the writings involve complex factual and legal issues, and show solidly developed legal writing and research skills. They display the effective communication skills that are essential to competent legal practice. For example, LSVI's advocates challenge sloppy mortgage servicing and foreclosure practices when they are presented. The St. Croix office opposed the judicial action filed by the U.S. Rural Development Office in a home mortgage foreclosure case where the agency attempted to proceed on unexecuted copies of documents, documents containing significant conflicting dates, and uncredited administrative offsets taken from the client's Social Security Disability benefits under the Treasury Offset Program ("TOP"). While the U.S. government ultimately prevailed in the action following several leaves to amend and a six-month stay of the litigation to allow a further administrative review of the clients' mortgage, the case is a demonstration of advocates' perseverance and ability to confront complex factual and legal issues.

The St. Thomas office submitted a brief in the United States Court of Appeals for the Third Circuit on behalf of an appellee to help defend the favorable results obtained under the Virgin Islands Wrongful Discharge Act (WDA). The Virgin Islands Department of Labor was also an appellee in this action. As explained by LSVI advocates, the WDA abrogates the common law rule of at-will employment in the Virgin Islands and requires just cause for terminating covered at-will employees. A presumption exists that an employee has been wrongfully discharged for any reason other than those listed in the Act. Cases in this area are accepted as part of the program's goals and objectives to provide economic security and safeguard economic opportunities of the eligible client population. These cases are hotly contested and can present complex factual issues that demand solidly developed advocacy skills and a mastery of the fundamentals of trial and appellate practice. The St. Thomas office brief reflects these qualities. The high quality brief turned out not to be the winning brief in this case. The Third Circuit reversed the favorable decision of the United States District Court for the Virgin Islands. LSVI continues to highlight the importance of its employment work under the WDA, performing a "watchdog" function that is recognized and respected throughout the service area.

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<sup>14</sup> The employment area represents one of the most critical legal areas for low-income residents. LSVI's government and non-profit partners acknowledge this. They give LSVI very high marks for the program's vigilant work under the Virgin Islands' Wrongful Discharge Act (WDA) since the inception of the Act in 1986. Any covered at-will employee who is discharged in violation of WDA may file an administrative complaint with the Commissioner of Labor, who has the authority to order reinstatement and back pay. A covered employee may also file a lawsuit for compensatory and punitive damages. The Act does not require exhaustion of administrative remedies.

Family law litigation is one of the most common points of contact that low-income residents of the Virgin Islands have with the civil justice system. Many turn to LSVI to obtain the civil law's protection of the integrity, safety, and well-being of their family and its members. The family law writing sample concerns a divorced mother of two minor children seeking a reasonable adjustment to the visitation schedule with the children's father. After the trial court declined to hold the mother in contempt, the children's father appealed to the Supreme Court of the Virgin Islands and the St. Croix office submitted a brief on behalf of the mother. The brief presents a straight forward factual discussion that is clear, short and concise, appropriate in tone, and persuasive. The Supreme Court affirmed the trial court's order denying the motion for contempt.

The writing samples provided confirm that LSVI's attorneys engage in persistent advocacy and provide quality legal services. They aim to achieve results that not only supply benefits to the individual client in the case but also to the broader low-income community.

**Recommendation III.1.11.1.\*** *LSVI should develop legal work/advocacy supervision standards designed to ensure adequate initial and ongoing supervision and training so that case handlers can acquire and continue to develop effective advocacy skills and practices.*

**Recommendation III.1.11.2.\*** *After the strategic planning process and the new needs assessment are completed, LSVI should review the current job descriptions of its advocates, including the director of litigation, to ensure that they reflect the necessary responsibilities and job duties to successfully implement the strategic plan and accomplish the goals, objectives and outcomes established under the new priorities.*

**Recommendation III.1.11.3.\*** *After the new needs assessment is completed, and as part of the strategic planning process, the LSVI director of litigation should develop a new comprehensive litigation and advocacy plan designed to accomplish in the most impactful way the goals, objectives and outcomes derived from the strategic planning process and the new adopted priorities.*

### **Private Attorney Involvement**

***Finding 15: LSVI is striving to involve private attorneys in the program's work to supplement the amount and effectiveness of its extended representation and other services.***

LSVI strives to meet its PAI obligation through compensated private attorneys and in-house directed pro bono. Of the approximately 400 eligible private attorneys in the service area, 33 (8.3%) actively participate in the program's PAI efforts. Historically, PAI in the Virgin Islands has always been described as marginal based on the totality of circumstances in the territory, including the reality that approximately 30% of private attorneys licensed in the territory do not reside in the Virgin Islands. Another barrier is the mandatory territorial and federal court appointment system for indigent criminal defendants. The territorial trial courts require all attorneys engaged in the private practice of law to accept indigent criminal appointments while only attorneys with significant criminal defense experience are required to serve on the indigent appointment panel of the federal court system. As a result, indigent

criminal defense obligations are cited as reasons for attorneys' inability to accept indigent civil law cases from LSVI.

In theory, there are approximately 200 private attorneys that could participate in LSVI's PAI efforts. If non-resident licensed attorneys are included, the number eligible attorneys would rise to approximately 400.<sup>15</sup> Historically, neither resident nor non-resident attorneys make monetary donations to LSVI in lieu of participating in the program's PAI efforts.

In 2013 only 10 attorneys accepted cases compared to eight attorneys in 2012 and 15 attorneys in 2011. It should be noted, however, that the program suffered nearly 50% reduction in LSC funding due to the census adjustment and its PAI budget was reduced accordingly. At the time of the visit, LSVI's mandatory annual PAI requirement was less than \$20,000.

In our report on the 2007 on-site visit to LSVI, we noted that in the past the program's closed cases for PAI had been minuscule. At that time the CSRs for PAI averaged 14 cases per year, which amounted to an average of 1.6% of total CSRs per year for the period 2000-2006. The historic trend continues: For the period 2007-2013, CSRs for PAI averaged 8 cases per year, which amount to an average of 0.9% of total CSRs per year for the period.

LSVI's total PAI closed cases per 10,000 poor persons (hereafter, per 10K) are significantly below the national median. In 2013, LSVI's performance was four cases per 10K compared to the national median of 21 cases per 10K; in 2012, LSVI closed five cases per 10K compared to the national median of 22; and in 2011, LSVI closed four cases per 10K compared to the national mediana of 26.

As a percent of total PAI, extended service cases were 100% of the program's closed PAI cases in 2013, 87.5% of all PAI cases closed in 2012, and 84.6% of all PAI cases closed in 2011. The program's PAI cases are rarely contested. While still significantly below the national median, LSVI's closed extended PAI cases per 10K were slightly better than its total closed PAI cases per 10K. For example, in 2013 the program closed four extended PAI cases compared to the

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<sup>15</sup> In "Legal System in the United States Virgin Islands" by *Bernard C. Pattie* at <http://new.onepaper.com/vibarherald/?v=d&i=&s=Bar+Info:Law+Review+%26+Articles&p=48799>, the author states the following about bar admission and the practice of law in Virgin Islands:

Today, the Territorial Court controls admission to the Virgin Islands Bar, although the District Court continues to regulate certain aspects of admission in its own bar as it does throughout the United States. There are approximately six hundred bar members, public and private. Unless admitted pro hac vice in a particular case, private practitioners in the Virgin Islands must be members of the Virgin Islands bar, which among other things requires that they take and pass the Virgin Islands Bar Examination, which consists of the Multi-State Bar Examination, the Multi-State Professional Responsibility Examination and a 12 part essay examination on Territorial law. Although currently there is no continuing legal education requirement, a Territorial Court rule mandating the same and which would include professional responsibility is currently under consideration by the Bar Association's Committee on Legal Education. There is no reciprocity with other jurisdictions. Pro hac vice admission requires, among other things, the taking of an oath, in open court, in the Virgin Islands. Performing legal work in Virgin Islands cases (including the taking of depositions), without meeting these criteria, constitutes the unauthorized practice of law.

national median of seven cases; in 2012, LSVI closed four per 10K compared to the national median of eight; and in 2011, the program closed three cases per 10K compared to the national median of nine.

Oversight of the program's PAI efforts is the responsibility of the executive director with the assistance of a legal support staff/PAI coordinator in the St. Croix office and the two managing attorneys. The weekly case acceptance meetings identify which cases are suitable for PAI referral. The cases are then routed to the PAI coordinator for placement. Status letters in all pending cases are sent at least quarterly. Upon closure of the case, some clients receive a telephone call from the coordinator to gauge their satisfaction with the assistance provided by private attorneys.

Some LSVI advocates participate in the affairs of the bar. For example, one staff attorney co-chairs the Virgin Islands Bar Association's Access to Justice Committee. Of course, the executive director maintains effective communication with the bar and judiciary, attends bar meetings and other law-related functions, is a member of the Judicial Council of the Virgin Islands Bar Association, and serves on the board of the Virgin Islands Legal Assistance Foundation, the Virgin Island Bar's Access to Justice Committee, and the newly formed Virgin Islands Access to Justice Commission.

***Recommendation III.2.15.1.*** *LSVI should begin using client satisfaction surveys on a regular basis in PAI cases to confirm that its clients are treated with dignity and respect, are being kept informed and properly consulted regarding the conduct of the representation, and are satisfied with the representation they received.*

***Recommendation III.2.15.2.*** *With its partners, LSVI should develop a satisfaction survey instrument to obtain feedback from pro bono attorneys to, among other things, help increase participation, case placements, and caseload diversity.*

***Recommendation III.2.15.3.\**** *In the context of the ongoing strategic planning, LSVI should evaluate all essential components of its private attorney involvement program and, thereafter, review annually the goals, objectives, and outcomes of its overall PAI efforts.*

### **Other program services and other program activities on behalf of the client population**

***Finding 16.*** *LSVI is continuing to supplement its representation of individual clients with some community outreach and community education activities.*

The main focus of the program's work is directed at individual representation in the core poverty law areas, outreach in isolated neighborhoods, and preventive legal education activities with a number of government and social service agencies. While community organizations and social service agencies view the program as an important and critical resource for low-income persons, they are painfully aware of LSVI's funding and staffing challenges.

LSVI conducts some outreach and community education events at senior centers, community action agencies, and other organizations. LSVI conducts outreach intake in Frederiksted, located at the extreme western end of the island of St. Croix. Frederiksted contains a large concentration of the island's poverty population.

***Finding 17: LSVI's technology for supporting community/public education and community engagement needs to be upgraded.***

As noted elsewhere in this report, LSVI's two websites—[www.lawhelp.org/vi](http://www.lawhelp.org/vi) and the administrative site at [www.legalservicesvi.org](http://www.legalservicesvi.org)—are not functioning at present. The expectation of the national civil legal aid community is that the program's LawHelpOrg/VI site would serve as an online resource for people living on low-incomes and provide basic information about legal rights, self-help information, court information, links to social service agencies, and more.

As part of its strategic planning, the program needs to address the function of the LawHelpOrg/VI site and make the necessary changes to modernize and maintain the site as a helpful resource for the client community and its staff.

***Recommendation III.3.16.1.*** *LSVI should continue its efforts, through outreach and other means, to disseminate reliable information about the program's mission, services, and the law, aimed particularly at those low-income persons who are most isolated or vulnerable or who have been disproportionately underserved.*

***Recommendation III.3.16.2.*** *LSVI should explore conducting periodic radio programs on appropriate topics and issues.*

#### **PERFORMANCE AREA FOUR: Effectiveness of Governance, Leadership and Administration.**

##### **Board Governance**

***Finding 18: The LSVI board of directors provides appropriate oversight and shares the mission of the program.***

LSVI is governed by a 15-member board composed of 10 attorneys and five client members. The members are diverse in terms of race and gender. Members are elected to three year terms. There is a term limit—no member may serve “more than two consecutive terms nor more than three full terms in all”. The board is required to meet at least six times each year. A core group of the members is very active. The board's executive committee includes members with a wealth of pertinent experience. There is an audit-finance committee of three members, including the treasurer, who has a financial background. The two other standing committees are the client grievance committee and the nomination and election committee. Client-eligible board members appear to be full participants and feel free to contribute during meetings. The board's current secretary is a client member.

The minutes reflect appropriate oversight and engagement. Board members are satisfied with the quality and timeliness of materials provided by program leadership prior to meetings. While

acknowledging that the board has not been asked in the past to take on a fund-raising role, several board members expressed an understanding of the need to do so and a willingness to add that function to their roles. Members are deeply concerned about budget cuts and forced reductions in force.

The executive director is evaluated annually. He has just begun discussions with the board regarding his eventual retirement. While board members lament the reality that the executive director will leave the program in a few years, they acknowledge the critical need for intentional succession planning regarding the program's executive leadership as well as the board's own leadership.

**Recommendation IV.1.18.1.\*** *LSVI should provide board members appropriate training regarding strategic planning, leadership succession, and board-assisted resource development.*

**Recommendation IV.1.18.2.\*** *The board, with assistance from the executive director, should develop an explicit leadership development and succession planning process for major leadership positions in program and within the board of directors.*

**Recommendation IV.1.18.3.** *LSVI board members should become actively engaged in resource development for the program through, among other things, personal contributions, solicitation of contributions from their colleagues, and using their relationships with the businesses and philanthropic organizations within and beyond the Virgin Islands.*

**Recommendation IV.1.18.4.** *The LSVI board should consider establishing an advisory group consisting of well-connected members of the legal, business, philanthropic and political communities to help plan and implement a resource development plan.*

**Recommendation IV.1.18.5.** *The board should mandate the development of a leadership development plan for the top leadership positions beyond executive director.*

## **Leadership**

***Finding 19: While LSVI's executive leadership has been effective, it is now entering a state of transition as the executive director contemplates retirement.***

The LSVI executive director has 44 years of experience in the legal profession. He has served in management positions with the program for 30 years, 17 as executive director. The board, staff, legal community, government, and social services representatives are overwhelmingly of the opinion that the executive director is an effective leader. There is a great deal of loyalty and respect for the executive director, both inside and outside the program.

The team notes that the program's employees, generally, enjoy very good reputations in the community, among their colleagues in the bar, in government, and the nonprofit community. Staff, the board, and others outside the program all view LSVI as a cohesive organization, with clear lines of authority.

Following the visit, the team learned that the executive director feels the need to assist with the program's pending cases as a result of turnover in two attorney positions. Because of the magnitude of LSVI's resource development needs and the time-consuming nature of comprehensive strategic planning, we would urge the executive director to severely limit any direct case handling responsibilities.

***Recommendation IV.2.19.1.\**** *The executive director, working with the board and staff, should lead a strategic planning process to arrive at a bold strategic future for the program. Along with strategic planning, the executive director should oversee a new needs assessment.*

**Overall management and administration, financial<sup>16</sup> and human resources administration, and internal communication**

***Finding 20: LSVI's overall management and administration are good.***

The LSVI management team is comprised of the executive director, the director of finance and administration, the managing attorney/director of litigation, and the St. Thomas office's managing attorney. Out of a total of 11 employees program-wide, the four person-team accounted for 36% of LSVI's staff at the time of the visit. Of necessity, two of the four (the managing attorneys) are also case handlers and all but one are housed in the St. Croix office. They are all sufficiently knowledgeable and experienced to manage, administer and direct the program.

The director of finance and administration has been two years with the program and has 15 years of experience in related financial management positions. He is highly praised by the executive director, the board and staff for his fiscal management of the program. LSVI remains a very small legal aid organization. In 2007, the program had a total of 15 employees. The present workforce represents a 17% reduction in staff over the course of seven years.

Internal communication was cited as a challenge in the recent past but concerns have since been resolved. The team did not encounter or hear of any ongoing concerns about the program's human resources policies, procedures or practices. Internal communication is mainly done via video conferencing and email. There are few face-to-face meetings. In the past the program held an annual program-wide staff retreat. The last one was held in 2012. Staff acknowledge that, absent special circumstances, information exchange via email, other written correspondence, and videoconferencing is adequate. The executive director visits the St. Thomas office three to four times a year, and when there are special events that may warrant his attendance.

The program's management and staff display a shared sense of vision and mission.

***Finding 21: LSVI's technology planning, acquisitions, and upgrades are currently in a state of transition.***

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<sup>16</sup> This visit was conducted by the Office of Program Performance (OPP) for the purposes set forth in the Introduction. OPP findings and recommendations under this criterion are limited to staffing, organization, and general functions. Assessment of fiscal operations is conducted by other offices at LSC.

While LSVI has a written technology plan to address current and planned use of technology, the plan does not provide a sufficiently comprehensive roadmap for addressing the program’s critical technology needs, acquisitions, and upgrades. The team is mindful of LSVI’s characterization of its plan as a “fluid document” intended to be “reviewed and upgraded on a regular basis.” At the time of the visit, LSVI had outsourced its information technology. Overall, staff are equipped with the basic technology. Most workstations are up-to-date and the case management system is sufficient.

The program has an administrative website, [www.legalservicesvi.org](http://www.legalservicesvi.org), which cannot be accessed at the present time. The LSVI technology plan acknowledges that the program is having challenges with webpage administration for this site and its LawHelp site at [www.lawhelp.org/vi](http://www.lawhelp.org/vi). The sites are not available as tools for community engagement, outreach, legal information, and community education as originally intended. LSVI plans to address its website challenges during the course of its strategic planning. Moreover, the program’s websites do not appear as an option when one Google search “legal services virgin islands.”

The LSVI technology plan confirms that program does not use “voice mail or other automated communication systems because [LSVI] still adhere to the practice and process of having a ‘live person’ on the other end of the phone.” Despite not providing telephone intake or advice, the plan states that LSVI is “exploring initiating telephone intake to a limited degree.

***Recommendation IV.3.21.1.*** \* LSVI should regularly evaluate and adjust its technology plan to ensure that the program is making the highest and best use of affordable technology.

***Recommendation IV.3.21.2.*** \* LSVI should retain affordable technology expertise to address its technology needs and to restore and upgrade its websites.

***Recommendation IV.3.21.3.*** \* Reactivating and modernizing the LSVI websites should be built into the strategic planning process, such that the information website contains a wealth of information on a variety of civil legal aid topics, including access to interactive legal forms, and referrals to other providers, legal and non-legal.

***Recommendation IV.3.21.4.*** LSVI should explore technology collaboration and coordination with its access to justice partners; take advantage of available expertise and resources of access to justice partners to assist its technology planning and implementation efforts; ensure that technology decisions are made strategically and will accomplish desired goals and outcomes; and strive to ensure that changes to technology are implemented in a coordinated manner.

***Recommendation IV.3.21.5.*** LSVI should maintain effective communication, coordination, and a general presence with the Virgin Islands Next Generation Network (viNGN) regarding the planned improvement of broadband capacity in the Virgin Islands under the Broadband Technology Opportunities Program (BTOP).

## **Resource Development**

***Finding 22: While LSVI has had some resource development successes, much needs to be done given the extraordinary needs of the low-income population throughout the service area.***

LSVI receives the bulk of its operating funds from the government of the Virgin Islands. The local government faces a \$40 million deficit for 2014 and projects a nearly \$70 million deficit for 2015. Further funding cuts loom. The program experienced a 50% reduction in LSC funding due to the census adjustment in 2013 and 2014.

In preparation for the onsite visit, LSC asked LSVI to produce its most recent resource development plan. In response, LSVI stated that "resource development is mainly through grants." The program added: "We do not have a formal plan, nor a resource development staff person. Further, the Board of Directors is historically not involved in resource development. The Executive Director is primary responsible for resource development." The team found that, as noted above, the principal responsibility for resource development rests with the executive director. The board expects the director to seek and explore initiatives for new funding.

For calendar year 2014, LSVI's total revenue was \$1,415,505. Of this total, \$161,546 (11.4%) was LSC basic field funding and \$1,253,959 (88.6%) was from non-LSC sources. In calendar year 2012, prior to implementation of the census adjustment, out of a total of \$1,559,673, the program's LSC revenue was \$304,344 (19.5%) compared to non-LSC revenue of \$1,255,329 (80.5%). Due to the census adjustment, LSVI has experienced nearly 50% decrease in its LSC funding between 2012 and 2014.

The executive director and the board recognize that resource development is the key to addressing many of the program challenges—number of advocates, staff compensation, technology, and expanded and diversified services to clients. Accordingly, in the context of its strategic planning, LSVI intends to develop a formal resource development plan. The executive director, board, and staff all agree that there is an urgent need for a greater percent of the executive director's time to be devoted to resource development.

In addition, LSVI acknowledges that an annual report would be beneficial. The team encourages the program to enlist the assistance of some of its strategic partners and produce annual report, beginning with calendar year 2015. Annual reports are now essential requirements for all world class nonprofits. LSVI should appreciate the fact that much of its work makes for powerful stories that could support effective fundraising.

***Recommendation IV.7.22.1.*** \* *In connection with the recommended strategic planning process, LSVI should develop a comprehensive resource development plan to expand the program's base of funding and increase overall resources devoted to client services. This effort should include, but not be limited to working with strategic partners to identify foundations on the U.S. mainland that show any history of support for work such as LSVI's, and developing a detailed schedule for efforts to submit grant proposals.*

***Recommendation IV.7.22.2.*** *LSVI should begin producing an annual report that transforms the*

*program's raw data into a public relations product that tells a powerful story and educate the public and potential funders. In addition, the annual report should recognize significant contributions by the program's strategic partners and supporters, especially private attorneys.*

**Recommendation IV.7.22.3.** *In the context of strategic planning, LSVI should develop a plan for obtaining monetary donations from resident and non-resident attorneys licensed to practice in the Virgin Islands.*

**Recommendation IV.7.22.4.** *LSVI should explore resource development strategies such as private bar/business community fundraising, as well as planned gifts to LSVI from long-time supporters.*

**Recommendation IV.7.22.5.** *LSVI, along with its strategic partners, should strive to develop and maintain an overall media strategy tied significantly to resource development.*

**Participation in an integrated legal services delivery system.**

***Finding 23: LSVI is striving to create the equivalent of a state justice community in the Virgin Islands to further efforts to achieve equal access to justice.***

Historically, LSVI has collaborated with the judiciary, the bar association, nonprofits, and governmental agencies in the territory<sup>17</sup> to create and maintain the equivalent of a state justice community in the Virgin Islands to further efforts to achieve equal access to justice. In large measures, this effort contributed to the establishment of a Commission on Access to Justice by the Supreme Court of the Virgin Islands in September 2014.<sup>18</sup> The 15 member Commission includes a representative from LSVI. The commission is charged with developing a comprehensive plan:

- To promote and expand equal access to justice at all levels for moderate to low-income and otherwise disadvantaged persons;
- To identify and abridge service gaps in the administration of justice;
- To develop comprehensive strategies to meet the legal needs of all persons;
- To help the justice system efficiently deliver outcomes that are fair and accessible to all.

This impressive agenda will require LSVI and its partners to think and act boldly-- focusing on resource development challenges, the pressing legal needs of the client populations, and removing all of the access barriers to the courts. In addition, this agenda will require more than

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<sup>17</sup> There is no law school in the Virgin Islands. The president of the University of the Virgin Islands has stated that the university will try to establish a law school in the distant future. The university at present is making plans to establish a medical school.

<sup>18</sup> See Press Release, Supreme Court of the Virgin Islands at: <http://www.visupremecourt.org/wfData/files/professionalregulation/Press%20Release%2020140012%20ATJC.pdf> and see Order of the Supreme Court of the Virgin Islands at: <http://www.visupremecourt.org/wfData/files/professionalregulation/ATJC.pdf>

the participation of the directors and board chairs of the access to justice partners, but their key staff and board members as well.

**Recommendation IV.9.23.1.** *LSVI, in conjunction with its strategic access to justice partners, should explore future economic impact analyses of civil legal aid to share with foundations, the territorial governments, the business community, the courts, and other potential funders.*

**Recommendation IV.9.23.2.** *In addition to economic impact analyses of civil legal aid, LSVI and its access to justice partners should explore developing a public relations/education campaign to enhance the image and increase public awareness of the needs of civil legal aid in the Virgin Islands. This effort should include, but not be limited to the use of public service announcements and related media strategies.*

**Recommendation IV.9.23.3.** *LSVI should monitor what is now a very tentative idea of establishing a law school at the University of the Virgin Islands in the distant future to help shape, to the extent practicable, appropriate civil legal aid clinical components and related programs.*

## CONCLUSION

LSVI is a well-run organization with the staff capacity to provide high quality, effective and efficient legal services to the eligible low-income populations in the Virgin Islands. The program and its staff continue to enjoy a very good reputation. The broader justice community is aware of the program's urgent need for greater financial resources and expresses a willingness to join LSVI in a strategic planning process to craft a bold plan of action. The executive director, board, and staff acknowledge the program's challenges and demonstrate a willingness to address them.