ELDER JUSTICE CENTER PILOT PROGRAM

SUMMARY REPORT TO THE PDSC BOARD OF TRUSTEES

September 28, 2021

Highlights & Issues

- Unquestionable Need
- Staggering Support
- Budgetary Constraints

Bill Number 199-36 (COR)

- FY 2022 Appropriation
- EJC Operations
- $580,070.00

American Rescue Plan Act of 2021

- EJC Request to the Administration
- $580,070.00

ADDITIONAL FUNDING SOURCES

- Sponsorships
- Grants
- Donations
- Events

$192,144.00

Benchmark

PERSONNEL					
Position	Salary		Fringe Benefits		Total
	Computation	Cost	Computation	Cost	Salary and Fringe
2 Attorney IV	$89,057 x 2	$ 178,114.00	$51,735.00 x 2	$ 103,470.00	$ 281,584.00
1 Special Projects Coordinator III	$ 39,350.00	$ 39,350.00	$ 30,152.00	$ 30,152.00	$ 69,502.00
1 Advocate/Social Worker III	$ 52,235.00	$ 52,235.00	$ 35,746.00	$ 35,746.00	$ 87,981.00
1 Legal Secretary III	$ 36,061.00	$ 36,061.00	$ 28,724.00	$ 28,724.00	$ 64,785.00
1 Legal Secretary I	$ 26,520.00	$ 26,520.00	$ 24,581.00	$ 24,581.00	$ 51,101.00
1 Legal Clerk II	$ 30,774.00	$ 30,774.00	$ 26,428.00	$ 26,428.00	$ 57,202.00
Total		$ 363,054.00		$ 249,100.00	$ 612,154.00
				Total Personnel	**$ 612,154.00**
				Less Federal Grant	**$ (192,144.00)**
				Additional Funds Needed for Personnel	**$ 420,010.00**

SCENARIO A

Scenario A		
1 Attorney with Fringe Benefits		
2 SPC with Fringe Benefits		
Salaries / Wages	$	156,879
Fringe Benefits	$	100,623
Total Personnel	$	257,502
Less Federal Grant	$	192,144
Additional Funds Needed	**$**	**65,358**

SCENARIO A
STAFFING PATTERN

	Input by Department															Input by Department			
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)	(R)	(S)
								Increment			Benefits								
No.	Position Number	Position Title	Name of Incumbent	Grade / Step	Salary	Overtime	Special*	Date	Amt.	(E+F+G+I) Subtotal	Retirement (J *28.32%)	Retire (DDI) ($19.01*26PP)	Accrued A/Leave	Medicare (1.45% * J)	Life 1/	Medical (Premium)	Dental (Premium)	Total Benefits (K thru Q)	(J + R) TOTAL
		ATTORNEY 4	KATHY F. SIGUENZA	AL-4-5	$89,057	$0	$0		$0	$89,057	$25,221	$495	$8,906	$1,291	$187	$12,739	$453	$49,292	$138,349
		SPCL PROJ COORD	IN RECRUITMENT	K-1	33,911					33,911	9,604	495	1,696	492	187	12,739	453	25,665	59,576
		SPCL PROJ COORD	IN RECRUITMENT	K-1	33,911					33,911	9,604	495	1,696	492	187	12,739	453	25,665	59,576
																		-	-
			Grand Total:	---	$156,879	$0	$0	---	$0	$156,879	$44,428	$1,485	$12,297	$2,275	$561	$38,218	$1,360	$100,623	$257,502

Scenario B

Scenario B		
1 Attorney with Fringe Benefits		
1 SPC with Fringe Benefits		
Salaries / Wages	$	129,898
Fringe Benefits	$	77,367
Total Personnel	$	207,265
Less Federal Grant	$	192,144
Additional Funds Needed	**$**	**15,121**

Scenario B
Staffing Pattern

No.	(A) Position Number	(B) Position Title	(C) Name of Incumbent	(D) Grade / Step	(E) Salary	(F) Overtime	(G) Special*	(H) Increment Date	(I) Increment Amt.	(J) (E+F+G+I) Subtotal	(K) Benefits: Retirement (J *28.32%)	(L) Retire (DDI) ($19.01*26PP)	(M) Accrued A/Leave	(N) Medicare (1.45% * J)	(O) Life 1/	(P) Medical (Premium)	(Q) Dental (Premium)	(R) Total Benefits (K thru Q)	(S) (J + R) TOTAL
		ATTORNEY 4	KATHY F. SIGUENZA	AL-4-5	$89,057	$0	$0		$0	$89,057	$25,221	$495	$8,906	$1,291	$187	$12,739	$453	$49,292	$138,349
		SPCL PROJ COORD	JEANENNE CORDERO	K-6	40,841					40,841	11,566	495	2,042	592	187	12,739	453	28,075	68,916
													-						
																		-	-
			Grand Total:	—	$129,898	$0	$0	—	$0	$129,898	$36,787	$990	$10,948	$1,884	$374	$25,478	$906	$77,367	$207,265

Columns (A) through (I) and columns (P) and (Q): Input by Department

Scenario C

Scenario C		
1 Attorney with Fringe Benefits		
1 SPC with Leave Benefits		
Salaries / Wages	$	129,898
Benefits	$	57,829
Total Personnel	$	187,727
Less Federal Grant	$	192,144
Balance	**$**	**4,417**

Scenario C
Staffing Pattern

	Input by Department															Input by Department			
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)	(R)	(S)
								Increment			Benefits								
No.	Position Number	Position Title	Name of Incumbent	Grade / Step	Salary	Overtime	Special*	Date	Amt.	(E+F+G+I) Subtotal	Retirement (J *28.32%)	Retire (DDI) ($19.01*26PP)	Accrued A&S Leave	Medicare (1.45% * J)	Life 1/	Medical (Premium)	Dental (Premium)	Total Benefits (K thru Q)	(J + R) TOTAL
		ATTORNEY 4	KATHY F. SIGUENZA	AL-4-5	$89,057	$0	$0		$0	$89,057	$25,221	$495	$13,359	$1,291	$187	$12,739	$453	$53,745	$142,802
		SPCL PROJ COORD	IN RECRUITMENT (CONTRACT)	K-6	40,841					40,841	-	-	$4,084	-	-	-	-	4,084	44,925
																		-	-
			Grand Total:		$129,898	$0	$0		$0	$129,898	$25,221	$495	$17,443	$1,291	$187	$12,739	$453	$57,829	$187,727

Scenario C

Scenario D with PDSC Support

Scenario D	
1 Attorney with Fringe Benefits	
1 SPC with Leave Benefits	
Salaries / Wages	$ 129,898
Benefits	$ 57,829
Total Personnel	$ 187,727
Less Federal Grant	$ 192,144
Balance	**$ 4,417**
1 Legal Secretary	Additional Support from PDSC
1 Legal Clerk	Additional Support from PDSC

SCENARIO D
WITH PDSC SUPPORT
STAFFING PATTERN

	Input by Department															Input by Department			
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)	(R)	(S)
								Increment			Benefits								
No.	Position Number	Position Title	Name of Incumbent	Grade / Step	Salary	Overtime	Special*	Date	Amt.	(E+F+G+I) Subtotal	Retirement (J *28.32%)	Retire (DDI) ($19.01*26PP)	Accrued A&S Leave	Medicare (1.45% * J)	Life 1/	Medical (Premium)	Dental (Premium)	Total Benefits (K thru Q)	(J + R) TOTAL
		ATTORNEY 4	KATHY F. SIGUENZA	AL-4-5	$89,057	$0	$0		$0	$89,057	$25,221	$495	$13,359	$1,291	$187	$12,739	$453	$53,745	$142,802
		SPCL PROJ COORD	IN RECRUITMENT (CONTRACT)	K-6	40,841					40,841	-	-	$4,084	-	-	-	-	4,084	44,925
																		-	-
			Grand Total:		$129,898	$0	$0		$0	$129,898	$25,221	$495	$17,443	$1,291	$187	$12,739	$453	$57,829	$187,727

Policy-Level Considerations

- Health-Care Power of Attorney Statute
- Expired Photo Identification
- Means Testing

SUMMARY

- Foundation for a Meaningful Permanent Program
- Advisory Council
- Adopt Scenario D

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
199-36 (COR)	Amanda L. Shelton Joe S. San Agustin Tina Rose Muña Barnes Telena Cruz Nelson Clynton E. Ridgell James C. Moylan Jose "Pedo" Terlaje	AN ACT TO APPROPRIATE FIVE HUNDRED EIGHTY THOUSAND SEVENTY DOLLARS ($580,070) FROM THE REVENUES RECEIVED PURSUANT TO CHAPTER 42 OF TITLE 11, GUAM CODE ANNOTATED, THE EARNED INCOME PROGRAM, REIMBURSEMENT FOR CALENDAR YEAR 2021 TO THE PUBLIC DEFENDER SERVICE CORPORATION FOR THE OPERATIONS OF THE ELDER JUSTICE CENTER.	9/13/21 10:21 a.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 199-36 (COR)

Introduced by:

Amanda L. Shelton
Joe San Agustin
Tina Muna Barnes
Telena Cruz Nelson
Clynton E. Ridgell
James C. Moylan
Jose "Pedo" Terlaje

AN ACT TO APPROPRIATE FIVE HUNDRED EIGHTY THOUSAND SEVENTY DOLLARS ($580,070) FROM THE REVENUES RECEIVED PURSUANT TO CHAPTER 42 OF TITLE 11, GUAM CODE ANNOTATED, THE EARNED INCOME PROGRAM, REIMBURSEMENT FOR CALENDAR YEAR 2021 TO THE PUBLIC DEFENDER SERVICE CORPORATION FOR THE OPERATIONS OF THE ELDER JUSTICE CENTER.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* that the Public Defender Service Corporation ("Corporation") is allowed to apply, receive, and administer federal grants to render legal aid and assistance to those persons in Guam, who, under rules established by the Corporation, are in the greatest economic and social need of legal assistance and representation, as provided in Public Law No. 36-19.

I Liheslatura finds that our *manåmko'* (elderly), the bedrock of our community, deserve quality legal services that could be duly provided by the hard-working and diligent staff of the Corporation, whose express mission already includes the representation of people who are unable to afford an attorney in private practice.

I Liheslatura further finds that the Corporation, in collaboration with the Department of Public Health and Social Services Division of Senior Citizens, opened the Elder Justice Center in May 2021 to serve Guam's elderly, with the goal of providing services to a waiting list of 252 clients. *I Liheslatura* notes that in the three months since the opening of the Elder Justice Center, the Corporation has seen their client list increase to nearly 500 clients in need of legal services, highlighting the demand in the community for legal advice relative to managing and distributing personal assets.

I Liheslatura further finds that the people of Guam are slated to receive reimbursements from the United States Treasury from the Earned Income Program, pursuant to Chapter 42 of Title 11, Guam Code Annotated.

Therefore, it is the intent of *I Liheslaturan Guåhan* to appropriate Five Hundred Eighty Thousand Seventy Dollars ($580,070) from the revenues received pursuant to Chapter 42 of Title 11, Guam Code Annotated, to the Public Defender Service Corporation for the purpose of establishing a permanent Elder Justice Center.

Section 2. Appropriation to the Public Defender Service Corporation. The sum of Five Hundred Eighty Thousand Seventy Dollars **($580,070)** from the revenues received pursuant to Chapter 42 of Title 11, Guam Code Annotated, the Earned Income Program, reimbursement for Calendar Year 2021, is hereby appropriated to the Public Defender Service Corporation for the operations of the Elder Justice Center, including personnel services, for Fiscal Year 2022.

Section 3. Effective Date. This Act *shall* become effective upon enactment.

ELDER JUSTICE CENTER

September 20, 2021

Ms. Alice Taijeron
Deputy Chief of Staff
Office of the Governor of Guam
Ricardo J. Bordallo Complex
Hagåtña, Guam 96910
By email: alice.taijeron@guam.gov

Re: Assistance for the Elder Justice Center, American Rescue Plan

Hafa Adai Deputy Chief Taijeron,

Thank you so much for taking time to speak with us last week and for your willingness to assist us with our request for funding through the Ameican Rescue Plan Act of 2021. The Elder Justice Center (EJC) was established in March as a 6-month pilot program to provide limited civil law services to socially and economically needy elderly, age 60 and over.

The EJC is under the Public Defender Service Corporation (PDSC) which has an MOU with the Department of Public Health and Social Services (DPHSS) Division of Senior Citizens (DSC) to administer Title III legal services to the elderly.

In the past, the DSC contracted with private attorneys to provide legal services, but the program stopped and a waitlist of 242 people languished for nearly three years until the EJC came into being. The PDSC is happy to be in the position of government helping government by working in partnership with the DPHSS on this worthy project which clearly makes far more economic sense for the Government of Guam.

Our mission over the last 6 months was to address the waitlist, to conduct outreach activities, and to establish and implement an Advisory Council to advise the Board of Trustees of the PDSC of changes or suggestions to be made for the betterment of the program.

As we enter our sixth month, the response to our program has been tremendous. Through calls received from the public and referrals from the DSC's vendor providing case management services, our client list has increased to 585 clients. Thus, the waitlist has more than doubled with minimal outreach activities which demonstrates how desperate our seniors are for legal assistance relative to end-of-life planning, including managing and distributing personal assets.

On September 28, 2021, PDSC's Board of Trustees will decide whether the EJC program will be extended beyond the 6-month trial period. We are hopeful that the Board will allow us to continue with this project. To date, the Board has limited our scope of services to powers of attorney, last will and testaments, living wills (essentially DNR's) and certain guardianships. We have found that much of our work involves counseling and educating seniors on how they may avoid probate in appropriate situations. For example, they may grant their property to their children by a deed of gift and reserve a life estate which allows the senior to stay on the property, and upon their death, title passes automatically to their children. This eliminates their heirs' need to hire an attorney and go to court to probate a will. We have also been able to counsel them on making end-of-life decsions, and prepare the documents to help the family should the senior become ill and/or incompetent. If their requested services are beyond the scope of our work, we refer them to the Guam Bar Lawyer Referral Service, Guam Legal Services Corporation, Micronesia Legal Services, the Office of the Public Guardian, and other relevant agencies. Our goal is to eventually expand the program to address a myriad of elder law issues and use this as a stepping stone to re-establish a civil law division at the PDSC, as mandated in PDSC's enabling statute.

We are entirely federally funded by a grant administered by the DSC and will receive $192,144.00 for FY22. No local funds have been appropriated for the EJC. The grant is not even enough to cover personnel costs. The DSC has provided us with small office space and while we are grateful, it is not conducive to a legal practice. We will need office space separate and apart from the PDSC's main office. Like the Alternate Public Defender division of the PDSC, we must be walled off from the PDSC main office to prevent conflicts of interest. A copy of the proposed budget we recently provided to Senator Amanda Shelton, at her request, is attached for your reference. It shows a budget of $772,214.00 which is $580,070 more than our alotted grant funding. Senator Shelton introduced a bill to provide funding for the shortage on the Legislative Floor during the recent budget hearing and unfortuneatly, if failed by one vote.

The EJC is governed by the Older Americans Act (OAA) which is open to all older adults age 60 and over. It limits service resources specifically to older adults with the greatest economic and social need. While it mandates targeting those in greatest need, it also clearly prohibits the use of means testing to determine who is eligible to receive legal services. The National Center on Law & Elder Rights has issued a publication with guidance on how to fulfill the OOA targeting requirements while adhering to the means testing prohibition, including organizing outreach activities to target seniors with the greatest economic and social need. A copy of the publication is found at https://ncler.acl.gov/pdf/Targeting-OAA%20-Services-Without-Means-Testing-Issue-Brief.pdf is attached.

Our program has garnered staggering community support. The Mayors' Council of Guam recently served the Governor and Speaker with a Resolution supporting the extension of the program. Nearly every village mayor also tendered a separate letter of support.

We also have a supportive group of individuals[1] who want to see this program succeed and have agreed to serve on our Advisory Council if the program is extended. We hope that we can obtain the support of the Administration through the Ameican Rescue Plan Act of 2021. Otherwise, it is likely that the program's services will be dramatically reduced to only include powers of attorney and living wills for the remaining waitlisted clients, despite their requests for additional services, and we will not be able to take additional calls.

PDSC had submitted its request through BBMR stating how no CARES money was given to the Corporation, despite staying open throughout the entire pandemic. We are hopeful that while we did not receive any CARES money to help off-set additional COVID related expenses, we are hopeful that funding will be available under the Ameican Rescue Plan Act of 2021.

Should you require further information or assistance supporting our request for assistance to help our *Mañaina* or *Manåmko'*, please do not hesitate to contact us. We look forward to hearing from you at your earliest.

Warmest regards,

Attorney Stephen P. Hattori
Executive Director
Public Defender Service Corporation

Cathyann C. Gogue
Administrative Director
Public Defender Service Corporation

Attorney Kat Sigüenza
Managing Attorney
Elder Justice Center

Enclosures (Budget and Publication)

[1] The Advisory Council shall include: The Honorable Judge Anita Sukola (ret.); Mayor Jesse Alig, Mayor of Piti and President of the Mayors' Council; Mrs. Lou Sanchez, retired bank executive; Attorney Kathy Long Campbell, elder law expert in CA (from Guam); and Dr. Doris Lee, internist, and public healthcare physician.

ELDER JUSTICE CENTER
130 University Drive
University Castle Mall, Suite 8
Mangilao, Guam 96913
Tel. No. 671-989-9390
support@guamejc.org

August 12, 2021

THE HONORABLE AMANDA L. SHELTON
Legislative Secretary and Assistant Majority Leader
Committee on Air Transportation, Parks, Tourism, Higher
Education, and the Advancement of Women, Youth, and Senior Citizens
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

VIA EMAIL officeofsenatorshelton@guamlegislature.org

Re: Elder Justice Center Proposed Budget

Dear Senator Shelton:

Hafa Adai! Please find enclosed the proposed budget for for the Elder Justice Center (EJC) for FY2022. The total proposed operational budget is $772,214.00. After applying the applicable federal grant ($192,144.00), the supplemental local funding needed to successfully operate the EJC is $580,070.00.

We are pleased that you support the partnership between the Public Defender Service Corporation (PDSC) and the EJC to administer much needed civil legal services to our Seniors. In three months the EJC's client list increased from 252 individuals to nearly 500 clients in need of legal services! Clearly this list alone substantiates the fact that our senior citizens are in desperate need of legal advice relative to managing and distributing their personal assets to their family members.

The demand for our services greatly outweighs our current capacity which is limited by the $192,144.00 federal grant available. We therefore make this appeal to our Legislature to share the cost of providing legal services to our aging Seniors. We envision establishing legal clinics at our existing Senior Centers to make our services even more accessible. The supplemental local funding can help us accomplish our goals.

We appreciate your continued support of the EJC. and your recognition of the benefits of partnering the PDSC and the Division of Senior Citizens, Department of Public Health and Social Services to fulfill the need to provide civil legal assistance to our Seniors.

Attorney Stephen P. Hattori
Executive Director
Public Defender Service Corporation

Cathyann C. Gogue
Administrative Director
Public Defender Service Corporation

Attorney Kat Siguenza
Managing Attorney
Elder Justice Center

Enclosures

I. BUDGET SUMMARY PROPOSAL

A. Personnel: Salary and Fringe Benefits	$612,154.00
B. Contractual	$113,318.00
C. Equipment	$38,107.00
D. Supplies	$2,400.00
E. Miscellaneous	$6,235.00
TOTAL	**$772,214.00**
DPHSS GRANT	**192,144.00**
LOCAL FUNDS REQUESTED	**$580,070.00**

A. <u>Personnel: Salary & Fringe Benefits</u>
- 2 Attorney IV
- 1 Special Projects Coordinator
- 1 Advocate/Social Worker
- 2 Legal Secretaries
- 1 Legal Clerk

B. <u>Contractual</u>
- Interpreters
- Malpractice Insurance
- Copier Lease and Maintenance
- Vehicle Lease, Insurance, Gas
- Office Lease with Utilities
- Internet Service
- Telephone Service
- Training/Memberships
- M.I.S. Administrative Support
- Fiscal Administrative Support

C. <u>Equipment</u>
- 7 Desktop Computers/Workstations
- 7 Desks/Cubicles
- 7 Chairs
- 8 File Cabinets
- 7 Telephone Units
- 2 Laptops with Carrying Bag
- 1 Portable Printer/Scanner
- 1 Shredder
- 1 Label Maker with Labels
- Software: Case Management System
- Software: E-Mail Service

C. <u>Equipment (continued)</u>
- Software: BambooHR Advantage

D. <u>Supplies</u>
- Folders, legal pads, paper, ink pads, labels, file prongs, post-its, paper clips, envelops, and other basic office supplies, PPE

<u>E. Miscellaneous</u>
- Title Company Contract
- Notary Bond
- Guam Bar Dues
- Contents Insurance

II. BUDGET DETAIL

A. PERSONNEL (See attached Staffing Pattern)

Salary

Position	Computation	Cost
2 Attorney IV	$89,057.00 x 2	$178,114.00
1 Special Projects Coordinator III	$39,350.00	$39,350.00
1 Advocate/Social Worker III	$52,235.00	$52,235.00
1 Legal Secretary III	$36,061.00	$36,061.00
1 Legal Secretary I	$26,520.00	$26,520.00
1 Legal Clerk II	$30,774.00	$30,774.00
	Total Salary:	$363,054.00

Fringe Benefits

Position	Computation	Cost
2 Attorney IV	$51,735.00 x 2	$103,470.00
1 Special Projects Coordinator III	$30,152.00	$30,152.00
1 Advocate/Social Worker III	$35,746.00	$35,746.00
1 Legal Secretary III	$28,724.00	$28,724.00
1 Legal Secretary I	$24,581.00	$24,581.00
1 Legal Clerk II	$26,428.00	$26,428.00
	Total Fringe Benefits:	$249,100.00

TOTAL PERSONNEL: $612,154.00

B. CONTRACTUAL

Item/Service	Cost
Interpreters	$1,200
Malpractice Insurance	$1,400
Copier Lease & Maintenance	$3,300
Vehicle Lease	$5,640
Vehicle Insurance	$1,400
Vehicle Gasoline	$2,700
Office Lease with Utilities	$66,096
Internet Service	$5,184
Telephone Service	$7,548
Training/Memberships	$5,000
M.I.S. Administrative Support	$7,600
Fiscal Administrative Support	$6,250

TOTAL CONTRACTUAL: $113,318.00

C. EQUIPMENT		
Item	Computation	Cost
7 Desktop Computers/Workstations	$2,000.00 x 7	$14,000.00
7 Desks/Cubicles	$1,000.00 x 7	$7,000.00
7 Chairs	$300.00 x 7	$2,100.00
8 File Cabinets	$350.00 x 8	$2,800.00
7 Telephone Units	$120.00 x 7	$840.00
2 Laptops with Carrying Bag	$900.00 x 2	$1,800.00
1 Portable Printer/Scanner	$200.00	$200.00
1 Shredder	$800.00	$800.00
1 Label Maker with Labels	$300.00	$300.00
Software: Case Management System	$6,000.00	$6,000.00
Software: Email Service	$1,500.00	$1,500.00
Software: BambooHR Advantage	$767.00	$767.00
	TOTAL EQUIPMENT:	**$38,107.00**

D. SUPPLIES	
Item	Cost
Folders, legal pads, paper, ink pads, labels, fasteners, post-its, paper clips, envelops, other office supplies	$2,400.00
TOTAL SUPPLIES:	**$2,400.00**

E. MISCELLANEOUS		
Purpose	Computation	Cost
Title Company Contract	$300.00 per occurrence x 12	$3,600.00
Notary Bond		$1,200.00
Guam Bar Dues		$600.00
Contents Insurance		$835.00
	TOTAL MISCELLANEOUS:	**$6,235.00**

ATTACHMENT 1

ELDER JUSTICE CENTER STAFFING PATTERN

	Input by Department														Input by Department			
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)		(L)	(N)	(O)	(P)	(Q)	(R)	(S)
							Increment			Benefits								
Pos. No.	Position Title	Name of Incumbent	Grade / Step	Salary	Overtime	Special*	Date	Amt.	(E+F+G+I) Subtotal	Retirement 26.97%	Accrued Leave	Retire (DDI) ($19.01*26PP)	Medicare (1.45% * J)	Life 1/	Medical (Premium)	Dental (Premium)	Total Benefits (K thru Q)	(J + R) TOTAL
1	ATTORNEY 4	VACANT	AL-4-5	$ 89,057	$ -	$ -		$ -	$ 89,057	$ 24,019	$ 13,359	$ 495	$ 1,291	$ 187	$ 11,916	$ 468	$ 51,735	$ 140,792
2	ATTORNEY 4	VACANT	AL-4-5	89,057	0	0		0	89,057	24,019	13,359	495	1,291	187	11,916	468	51,735	140,792
3	SPCL PROJ COORDINATOR III	VACANT	K-5	39,350	0	0		0	39,350	10,613	5,903	495	571	187	11,916	468	30,152	69,502
4	ADVOCATE/SOCIAL WORKER III	VACANT	N-5	52,235	0	0		0	52,235	14,088	7,835	495	757	187	11,916	468	35,746	87,981
5	LEGAL SECRETARY III	VACANT	J-5	36,061	0	0		0	36,061	9,726	5,409	495	523	187	11,916	468	28,724	64,785
6	LEGAL SECRETARY I	VACANT	H-1	26,520	0	0		0	26,520	7,152	3,978	495	385	187	11,916	468	24,581	51,101
7	LEGAL CLERK II	VACANT	H-5	30,774	0	0		0	30,774	8,300	4,616	495	446	187	11,916	468	26,428	57,202
		Grand Total:	—	$ 363,054	$ -	$ -	—	$ -	$ 363,054	$ 97,916	$ 54,458	$ 3,465	$ 5,264	$ 1,309	$ 83,412	$ 3,276	$ 249,100	$ 612,154

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

NATIONAL CENTER ON LAW & ELDER RIGHTS

ISSUE BRIEF • January 2018

Adapted from the Best Practice Notes by The Center for Social Gerontology

The Center for Social Gerontology

The Center for Social Gerontology, Inc. (TCSG), is a non-profit research, training and social policy organization dedicated to promoting the individual autonomy of older persons and advancing their well-being in society.

TCSG's mission is to help society adapt to the dramatic increase in the numbers of old and very old, and to insure that older persons at all socio-economic and health levels are able to meet their needs and use their talents and abilities in a changing society.

Introduction

While Older Americans Act (OAA) programs and services are open to all older adults age 60 and over, the Act contains numerous requirements that limited program and service resources be targeted specifically to older adults with the greatest economic or social need.[1] Throughout the OAA's history, Congress has added clarification on groups of older persons to be particularly targeted. Beyond the Act's general targeting requirements, there are special provisions regarding legal assistance that place even greater emphasis on targeting legal services. However, while the OAA mandates targeting to those in greatest need, it also clearly prohibits the use of means testing to determine who is eligible to receive legal services, creating a challenge for state and area agencies as well as legal providers.

This Issue Brief first describes the general targeting provisions in the OAA, and then examines additional requirements specific to legal services. It explores the challenge of how to effectively target limited legal resources to those in economic or social need if legal providers cannot say *no* to serving individuals based on income and assets. It concludes with guidance on approaches for fulfilling the OAA's targeting requirements while adhering to the means testing prohibition. The Issue Brief is adapted from The Center for Social Gerontology's Best Practice Notes: *Targeting Older Americans Act Services Without Means Testing: Meeting the Challenge*.[2]

General Targeting Requirements in the Older Americans Act

The original purpose of the OAA in 1965 was to test ways to address the needs of *all* older persons. However, over the past 50 years, Congress has increasingly directed that limited OAA resources be targeted to older adults with the greatest social or economic need. This has included more fully identifying an increasing number of specific groups to receive particular attention in targeting efforts; for example, low-income minority individuals and those with limited English proficiency.

The OAA defines greatest economic and social needs as:

> The term "greatest economic need" means the need resulting from an income level at or below the poverty line. The term "greatest social need" means the need caused by non-economic factors, which include: (a) physical and mental disabilities; (b) language barriers; and (c) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that: (i) restricts the ability

1 See for example, 42 U.S.C. §3025(a)(2)(E).

2 The Center for Social Gerontology, Inc., *Targeting Older Americans Act Services Without Means Testing: Meeting the Challenge,* Best Practice Notes, Vol. 15, Nos. 1 & 2 (July 2013), available at: tcsg.org/bpnotes/july13/july13BPN.pdf.

of an individual to perform normal daily tasks; or (ii) threatens the capacity of the individual to live independently.[3]

The OAA defines "poverty line" as the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).[4]

In each OAA reauthorization, Congress has provided further guidance and expansion on this targeting expectation. For example, in 1992, Congress required state agencies on aging to set goals for area agencies to provide services to low-income minority individuals and provide assurances that they would undertake specific program and outreach efforts to meet those needs.[5] In 2000, the reauthorization added focus on older individuals residing in rural areas. In 2006, Congress added, in a number of places, that state and area agencies should recognize the language needs of older individuals with limited English proficiency.[6]

The OAA currently specifies for state and area agencies on aging (AAA) a fairly long list of groups to be targeted. For example, with regard to outreach in both state and area plans, it requires the plans to provide assurances that the state/area agencies will use outreach that will identify older persons in particular target groups and inform them of available services. Area plans for example, must:

> (4)(B) provide assurances that the area agency on aging will use outreach efforts that will—
>
> (i) identify individuals eligible for assistance under this Act, with special emphasis on—
>
> (I) older individuals residing in rural areas;
>
> (II) older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
>
> (III) older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
>
> (IV) older individuals with severe disabilities;
>
> (V) older individuals with limited English proficiency;
>
> (VI) older individuals with Alzheimer's disease *and related* disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and
>
> (VII) older individuals at risk for institutional placement; and
>
> (ii) inform the older individuals referred to in subclauses (I) through (VI) of clause (i), and the caretakers of such individuals, of the availability of such assistance.[7]

All levels of the aging network—from the Administrator for Community Living/Assistant Secretary for Aging to each local provider—must adhere to these targeting requirements. At the federal level for example, targeting requirements are included in the role of ACL/AoA in providing training and TA to states, AAAs and providers and in evaluation of programs and services under the Act.[8]

Greater Targeting Requirements Specific to Legal Services

As noted, the targeting directive for legal assistance is even greater than for other OAA services. This is because of all the services defined in the Act, **only** "legal assistance" includes **as part of the definition itself,** a

3 42 U.S.C. §3002(23)-(24)(2016).
4 42 U.S.C §3002(43)(2016).
5 Older Americans Act Amendments of 1992, Pub. L. No. 102-375, §305(a)(2)(G)(i-iii) 106 Stat. 1222 (1992)
6 See for example provisions re Limited English at: 42 U.S.C. §3025(a)(1)(E), §3026(a)(1), §3026(a)(4)(A) (2016).
7 (42 U.S.C. §3026(a)(4)(B)(2016)). Similar language about State Plans is at 42 U.S.C.§3027(a)(16) 2016, with the exception that older individuals at risk of institutional placement are not mentioned.
8 42 U.S.C. §3017(a), §3018(a)(1) and (c), (2016).

directive that services are to go to "older individuals with economic or social needs." The definition is as follows:

(33) the term "legal assistance"—

(A) means legal advice and representation provided by an attorney to older individuals with economic or social need;... (emphasis added)[9]

As further guidance for targeting legal services, since 1992, state agencies are required to include assurances in their State Plan that area agencies on aging will give priority to legal problem areas of particular significance to the target populations. The priority issues include: income, health care, long-term care, nutrition, housing, utilities, protective services, defending older persons against guardianship, abuse, neglect and age discrimination.[10]

The 1991 Senate Committee report explains that the priority list is included: ...in response to concerns that many area agencies on aging have not established legal assistance programs which include sufficient outreach, targeting and community education components,... It is the Committee's expectation that these provisions will ensure that services are targeted to those in greatest social and economic need.[11]

Requirements to Target vs. Prohibition Against Means Testing

As noted, while targeting is clearly required throughout the OAA, means testing is prohibited. The balance of targeting services to those in greatest need while avoiding means testing can present a real challenge, particularly at the local service provider level. Understanding Congress' prohibition on means testing and the purposes of targeting can help providers achieve that balance.

"Means testing" is a process of using income and resources to determine eligibility for services. Initially, the OAA Regulations contained the means testing prohibitions—for OAA services generally[12] and for legal services specifically. For legal services, the regulations state that: "a legal assistance provider may not require an older person to disclose information about income or resources as a condition for providing legal assistance under this part."[13]

The means testing prohibition can present a particular challenge to providers who also receive funding from the Legal Services Corporation (LSC). LSC grantees are required to means test. Providers who receive funding from both LSC and ACL/AoA must be careful to assure their compliance with requirements of both funding sources.

Cost-Sharing vs. Voluntary Contributions in the 2000 Amendments

The 2000 Amendments brought—for the first time in the OAA—**cost-sharing which is a form of means testing that uses a sliding fee scale** linked to an older person's income. Any type of means testing had been a source of disagreement in prior reauthorizations. After much debate during the 2000 reauthorization process, Congress agreed to permit cost sharing for certain OAA services, for example, home and community based services.

However, for purposes of this discussion, the important point is that while the Act now allows some cost

9 42 USC. §3002(33) (2016) The uniqueness of the targeting requirement in the legal assistance definition is highlighted by comparing it to the definition of "information and assistance service." (I&A) Although I&A contains language that it be targeted to those with greatest social and economic needs and those at risk for institutional placement, it clearly prefaces this by defining I&A service as one that "serves the entire community of older individuals." 42 USC §3002(28) (2016). Legal assistance, on the other hand, is defined as a service to be delivered to elders with economic or social need and does not require serving the entire community

10 42 U.S.C. §3027(a)(11)(E)(2016).

11 S. Rep No 151, 102d Cong at 91 (1991)

12 45 C.F.R. §1321.67 (2012)

13 45 C.F.R. §1321.71(d) (2012).

sharing, it specifically prohibits it to determine eligibility for certain Title III services for which **voluntary contributions** are allowed. These include essential services, such as: legal assistance or other consumer protection services; benefits counseling; ombudsman, abuse prevention, congregate and home delivered meals; and any services delivered through tribal organizations.[14]

It is in the discussion of voluntary contributions that the Act itself now addresses means testing. Voluntary contributions are only allowed **provided there is no coercion[15] or means test used.[16]** Further, if a provider accepts voluntary contributions for legal services, these contributions must be used to augment legal services, and should not be used for other services or purposes.[17]

Asking About Financial Circumstances as Part of Service Delivery

Legal assistance providers often include questions about income and assets as part of their intake process so that they can appropriately address a client's legal circumstances or identify benefits for which they could qualify. So long as this information is not used up front to deny or limit services to the individual, this is appropriate under the OAA, as OAA regulations specifically state: "A legal assistance provider may ask about a person's financial circumstances as part of the process of providing legal advice, counseling, and representation, or for the purpose of identifying additional resources and benefits for which an older person may be eligible."[18]

Many legal problems cannot be resolved without understanding the client's income and assets. Further, many programs ask these questions as part of a "public benefits check-up" with clients to identify whether the client is eligible for SNAP, Supplemental Security Income (SSI), public housing, Medicaid, and Medicare Savings Programs.[19]

Guiding Principles for Targeting Services Without Means Testing

As clarified in the OAA, the goal for all entities in the aging network should be to provide legal services to those individuals with the greatest social and economic need. However, because of the natural tension between targeting services to those with greatest need while adhering to the means testing prohibition, legal services programs can effectively target by following these principles:

1. Identify the target population;
2. Establish the legal issue/case priority;
3. Provide legal services with cultural sensitivity and effective communications;
4. Develop strategic outreach and education materials;
5. Coordinate with other entities in the legal services and aging network; and
6. Make legal services accessible and user friendly.

More information on each of these components is below.

1. Identify the target population

Providers have several tools available to help ensure clients in the greatest need of legal services are targeted for assistance. First, providers, Legal Assistance Developers (LADs), and area agencies on aging (AAAs) can

14 42 U.S.C. §3030c-2(a)(2) and (3) 2016.
15 42 U.S.C. §3030c-2(b)(1), (2016).
16 42 U.S.C. §3030c-2(b)(3) (2016).
17 Specifically, the OAA states: "The area agency on aging shall ensure that each service provider will... use all collected contributions to expand the service for which the contributions were given and to supplement (not supplant) funds received under this chapter). 42 U.S.C. §3030c-2(b)(4)(E)(2016).
18 45 C.F.R. §1321.71(e)(2012).
19 The National Council on Aging's (NCOA) website, located at benefitscheckup.org, provides an easy way to identify benefits for clients.

jointly establish guidelines for identifying clients in the greatest need in their locality, with a focus on the populations identified in the OAA. These entities can then work together and use demographic information, such as census data, to target groups in the state and service area. Since information and assistance networks (I&Rs) and Aging and Disability Resource Centers (ADRCs) often serve as the first-line of assistance to many older adults and caregivers, the data that these programs track and report can be useful in highlighting trends and emerging legal issues. These targeting guidelines can serve to inform the development of operational procedures to reach and serve the target populations.

2. Establish legal issue/case priorities

Priority setting is the identification of specific types of life problems that are most critical to target groups in meeting basic needs, for example, income, shelter, nutrition, and health care. To avoid means testing, but to also successfully target the populations with the greatest needs, legal providers can prioritize these life challenges into the types of legal issues they will and will not handle. Legal resources are limited and by setting priorities, providers can maximize service for target groups and address the most serious needs.

The eleven (11) broad case priorities in the OAA—income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect and age discrimination—are a helpful starting point for the priority setting process. Also, the conclusions from a state's "legal needs assessment"[20] can help clarify the state and area's legal priorities. A finely honed set of priorities that reflect the most critical needs of targeted populations can provide a program with a fair and consistent way of accepting the most important cases and saying "no" without means testing.

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

Important note regarding the role of IIIB providers in guardianship cases: When setting priorities, remember the OAA provides specific guidance on the role of IIIB legal providers in guardianship cases.[21] The role is to defend an older person against guardianship or to terminate a guardianship. Only in limited circumstances can the Title IIIB provider represent an older person petitioning for guardianship. Under Title IIIB, the older adult is the client, and IIIB resources should not be used to represent an individual wishing to gain guardianship over an older person.

3. Provide legal services with cultural sensitivity and effective communication

Once developed, the identified target groups and case priorities should drive and shape outreach to potential clients. All outreach efforts should be guided by the overriding principle that legal services are provided with cultural sensitivity and clear communication.

Legal providers must have the capacity to communicate with individuals who have language barriers or other communication challenges.[22] To achieve this, programs can develop a language access plan. A language access plan should include procedures for assessing language needs, identifying staff language capacity, using interpreters, training staff, translating client letters and legal documents, conducting outreach to limited English proficient clients, and continuing to evaluate language access policies and procedures.[23]

20 "Assessing Legal Needs of Older Persons: A General Primer" and "A Guide to Conducting a Legal Needs Survey" provide detailed guidance on conducting a legal needs assessment. See The Center for Social Gerontology, *Best Practice Notes on Delivery of Legal Assistance to Older Persons,* Vol. 14, Nos. 1&2, March 2005.

21 42 U.S.C. §3030d(a)(6)(B)(2016).

22 Legal Services Corporation Guide to Language Access and Cultural Competency, available at: lsc.gov/grants-grantee-resources/resources-topic-type/language-access-cultural-sensitivity.

23 Id.

Here are several examples of language access plan components:

- Policy and Procedures on Providing Services to Limited English Proficient Clients[24]
- Step-by-Step Guide to Intake and Case Handling[25]
- Poster notifying clients of the right to an interpreter[26]

Additional guidance on developing language access policies is available through the Legal Services Corporation.[27]

4. Develop strategic outreach, publicity and community education

Frequently, the older adults with the greatest economic and social needs can be the hardest to reach and serve. Effective legal services outreach should accomplish three goals: education, relationship building, and empowerment. First, providers should educate older adults about the availability of legal services and the help they can offer. Next, providers should build relationships—both with older adults themselves, and the trusted community organizations already linked up with older adults. These trusted organizations are key for issue-spotting and can help provide "warm handoffs" to connect the older adult to the legal services organization. Finally, the outreach should empower the older adult. Whether through community legal education events that help the older adult recognize their problems as legal problems, targeted materials written at levels understandable by audiences, or other strategic means, outreach should empower the older adult to seek assistance and know that legal services can help them. Here is an example of how legal services programs can strategically reach a target population: LGBT older adults.[28]

How Legal Services Can Strategically Reach a Target Population: LGBT Older Adults

First, the program can build a **relationship** with LGBT centers and faith-based groups that serve LGBT older adults. Many LGBT centers have senior groups that would welcome a legal services program as a speaker. To **educate** the target population, a legal services program could offer free legal clinics for LGBT older adults on specific topics, such as advance planning documents, and collocate the clinic at LGBT centers on an ongoing basis. Legal services programs could advertise their services in a local LGBT publication, especially one that might be read by an older audience. Finally, to **empower** LGBT older adults to seek assistance, all outreach materials should specifically name issues facing LGBT older adults as issues the legal services organization works on. This specificity helps create an environment that welcomes LGBT older adults to seek services, even before the intake process.

5. Coordinate with legal services and the aging network

The OAA requires each legal program coordinate its services with local LSC programs, and with the private bar. Although the LSC Act requires programs use means testing, and the OAA explicitly prohibits means testing, the difference in eligibility processes heightens the need for Title IIIB legal services and LSC programs to coordinate. When Title IIIB and LSC providers share information about case priorities, they can set

24 Legal Aid Foundation of Los Angeles Policy and Procedures on Providing Services to Limited English Proficient Clients, available at: lsc.gov/sites/default/files/attach/resources/LanguageAccess-LegalServicesofNorthernCalifornia-ProcedureManual.pdf

25 Neighborhood Legal Services of Los Angeles County Language Access Policy, available at: lsc.gov/sites/default/files/attach/resources/LanguageAccess-NeighborhoodLegalServicesofLACounty-LEPPolicy.pdf.

26 Massachusetts Law Reform Institute, available at: masslegalservices.org/content/your-right-interpreter-poster-editable-version.

27 Legal Services Corporation Guide to Language Access and Cultural Competency, available at: lsc.gov/grants-grantee-resources/resources-topic-type/language-access-cultural-sensitivity.

28 This example is adapted from the Justice in Aging issue brief, *How Can Legal Services Better Meet the Needs of LGBT Older Adults?* By Denny Chan and Vanessa Barrington, available at: justiceinaging.org/wp-content/uploads/2016/06/How-Can-Legal-Services-Better-Meet-the-Needs-of-Low-Income-LGBT-Seniors.pdf.

priorities that complement each other, and coordinate procedures for referrals. For example, most LSC offices handle public housing, family law and landlord/tenant cases, which are experienced by low-income individuals regardless of age. A IIIB program would still have the flexibility to represent an older adult with a landlord/tenant problem, if referred by the LSC office for not meeting eligibility guidelines. Both programs must work together closely to avoid clients being bounced between programs or falling through the cracks.

In addition to LSC coordination, coordinating with local aging network community-based organizations (CBOs) is critical for providing holistic assistance to older adults. When legal services programs build relationships with these CBOs, and communicate with them regularly, the CBOs can issue-spot and refer older adults from the target populations to legal services, when appropriate. Here are some ways legal services can work with a CBO to reach the target populations:

- Coordinate with the local Long-Term Care Ombudsman program to reach nursing home residents;
- Train volunteers and staff who deliver meals and other home services on how to recognize priority legal problems and refer persons with legal needs to the legal provider; and
- Offer a free legal clinic at an LGBT center focusing on issue of specific interest to LGBT older adults.

Providers may also consider creating an Advisory Committee within the aging network to receive input about the needs, interest, and preferences of the target population. This committee should be diverse and include representatives of the target population, as well as other service providers and community leaders who serve or represent targeted groups.

6. Make services accessible and user friendly

Easily accessible services and user friendly offices are essential to targeting and successfully reaching those in greatest need. Legal providers should periodically assess their offices and operations to see how easily older adults can access their services.

Accessibility Check: Questions to Ask

- **Location and times of operation**: Is the office and intake site located within the target client community?
- **Home and institutional visits**: Does the program make home or institutional visits so that homebound seniors and those in nursing facilities have access to services?
- **User friendly and culturally sensitive offices**: Does the staff reflect the racial, ethnic and social backgrounds of the targeted groups? Does the program inform and educate staff about the perspectives, beliefs, traditions and customs of the cultures in the area served by the office?
- **Telephone access**: Does the provider have a toll-free number to enhance accessibility for clients in outlying rural areas? Does the provider utilize a relay service to communicate with clients who are deaf or hard of hearing? Is the phone system equipped to accept emergency messages from clients when staff are unavailable to answer?
- **Internet access**: Does the program's website clearly, and prominently, list the e-mail address, intake hours, directions and program priorities? As increasing numbers of older adults use Facebook to communicate, does the program have a Facebook account that it uses to help older adults access services?

Evaluating Targeting and Outreach Efforts

To assess the success of their outreach, programs can employ a range of methods to evaluate their targeting efforts. For example, legal services providers can seek regular feedback from clients through targeted surveys and documenting informal feedback. Programs can also use the data they collect on clients served, and regularly review that data to determine whether target populations are receiving needed services. Finally, coordinating with legal and aging partners, perhaps through an Advisory Committee or other established coordination infrastructure, can provide critical information to determine whether the legal and aging network as a whole is reaching the targeted population.

Conclusion

Targeting is critical to the provision of impactful, meaningful legal services. Targeting allows Title IIIB legal services providers to comply with the OAA's requirements for targeting older adults, without using means testing to limit eligibility. Working cooperatively, legal services providers, Legal Assistance Developers, state units on aging, and AAAs can appropriately target services to ensure that those services reach those older adults with the greatest social and economic needs.

Further technical assistance is available for attorneys and aging network professionals seeking more information to help older adults and improve the legal services delivery system. Contact NCLER at ConsultNCLER@acl.hhs.gov.

This Issue Brief was supported by a contract with the National Center on Law and Elder Rights, contract number HHSP233201650076A, from the U.S. Administration for Community Living, Department of Health and Human Services, Washington, D.C. 20201.