Expanding Access To Justice Through Effective Brief Services

Equal Justice Conference 2017
Al Schwartz & Pat Wrona
I. BRIEF SERVICES

**Defined:**

- Includes LSC closing codes: *Counsel & Advice* and *Limited Action*
- Legal advice, advice and referral, review or preparation of legal documents, self-help instruction and/or third party communications

**Application Rates:**

- Brief Service is the level of service *most legal aid clients receive*--by far
## Top LSC Performers

<table>
<thead>
<tr>
<th>Legal Aid Provider</th>
<th>Total Cases</th>
<th># Brief Services</th>
<th>% Brief Services</th>
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<td>16,482</td>
<td>69</td>
</tr>
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<td>2. Legal Aid of North Carolina</td>
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Legal Services Corporation (LSC) is an independent nonprofit established by Congress in 1974 to provide financial support for civil legal aid to low-income Americans. Data is from LSC’s most recent report (2013).
All LSC CASES

77% Brief Services
23% Extended Representation
Meeting the Need

Is our use of Brief Service meeting the legal needs of our clients?

CARPLS Legal Needs Study: Evaluated Service Level Applied vs. Service Level Needed
85% of all CARPLS cases receive Brief Service.
15% of all cases are referred to a legal aid partner for Extended Representation.
Service Level Need

---78% of all CARPLS cases need Brief Service
---22% of all CARPLS cases need Extended Representation
Meeting the Need

7% of CARPLS cases received a lesser level of service than is needed for the proper resolution.

These clients are getting “the consolation prize.”

78% of CARPLS cases, Brief Service was sufficient to meet the legal need.
CARPLS’ Brief Services by the Numbers

- 50,000+ Consultations/ 28,000 Cases / 1,800 Legal Issues
- Average Consultation Time: **28 Minutes**
- Average # Consults Per Case: **1.8**
- Average Total Case Time: **50 Minutes**
- Cases Resolved on Initial Consult: **65%**
- Cases Resolved In-House: **85%**
- Annual Budget: < $2,000,000
- **Average Cost Per Case:** $61
- Clients Satisfied with their Case Resolution: **73%**
- Clients who would recommend us to a Friend/Family: **96%**
# CARPLS v. Top LSC Performers

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II. STREAMLINED INTAKE

• Intake screening is a necessary component of every legal aid delivery system

• Every $ spent on intake screening is a $\textbf{not}$ spent helping clients
Benefits of Streamlined Intake

- **Increase access** to legal aid services by **reducing the costs** associated with screening
- Spend less time turning people away and **more time solving legal problems**
- **Improve the client experience** by removing barriers to services and providing timely decisions on eligibility
**CARPLS’ Streamlined Intake**

- **Single-stage intake**: Attorneys perform the intake and the consultation at the same time.

- Intake & consultations are performed on a **first come, first served** basis in-person at the courthouse and by phone—**No Appointments, No Call Backs**

- **Phone intake open** Monday through Friday 9AM-4:30PM. Evening hours on Monday and Wednesday until 8PM.

- Average intake time: **5 minutes**; Acceptance Rate: **93%**

- Works for programs with **broad eligibility** guidelines and practice areas
Keys to Streamlined Intake

- the fewer stages the better
- the fewer people the better
- the fewer questions the better
Keys to Streamlined Intake

Accessible

- Offered on multiple channels (phone, office, courthouse, online)
- Open for as many hours/days as possible to ensure open access to all client groups
Keys to Streamlined Intake

**Timely**

- Intake & eligibility decisions should be made quickly
- Position decision makers early on in the process
- No one wants to spend a lot of time answering questions and volunteer their personal information only to find out they don’t qualify
CHALLENGE

- **Calculate** how much your program spends on intake screening annually

- Next, develop a plan to **reduce** the cost by 10%

- If you can’t calculate what you spend, develop a plan to first **accurately measure** your intake cost then work to reduce it by 10%
III. ATTORNEY TRIAGE

• While most legal aid delivery systems position their attorneys at the end of the intake process, CARPLS’ legal triage model puts its most experienced attorneys right up front.

• Since most legal problems are resolved via Brief Service, it makes sense to put your best problem solvers out front.
Triage is performed by experienced attorneys who are specially trained to:

- Accurately diagnose the legal issue
- Assess the level of merit to the client’s particular situation
- Assess the level of service needed
- Apply the most cost-effective solution/strategy for resolving the legal issue

Attorney Triage
Attorney Triage

Benefits of Attorney Triage

• More **accurate diagnosis** of legal needs & capabilities

• Quicker case resolutions - 2/3 of all CARPLS cases are **resolved in a single consultation** with an attorney

• **Better outcomes** – 73% of all clients report that CARPLS helped **resolve** their legal problem to their satisfaction

• **Better client experience** – 97% of all clients would recommend CARPLS to a friend/family
Once the attorney has “made the diagnosis” and come up with the “legal treatment plan” then other staff is of great assistance:

- Positions non-attorney staff to provide more effective support
- Paralegals are best utilized to support the attorneys (ex. drafting documents for attorney review)
- Support the clients (explanation of self help steps and practical information)
- Act as “gate keepers” to current clients before they get to talk to the attorney again—is there a true need to talk to the attorney again or can the paralegal handle the question?

All paralegal work must be directly supervised by an attorney.
• Review your Brief Service cases and **measure** your percentage of cases involving multiple service calls/visits and the reasons for those calls/visits.

• **Develop** strategies to improve the initial consultation in order to minimize the need to call/come back again (and again).
IV. SERVICE LIMITS

Legal Aid is a LIMITED resource. In order to maximize access to legal aid services, legal aid programs should adopt written policies that:

• Limit the number, length, type and/or scope of services to any particular client

• Empower & encourage staff to invoke service limitations
Service Limits

Absent clear service limitations, a minority of clients can and will occupy an outsized percentage of your available staff time.
• Help minimize the resource drain of overly needy clients that limit your capacity to assist new clients and/or new cases.

• Service limits also help underscore the limited nature of brief services. If a client needs to consult with an attorney more than 5-6 times about their legal problem it is likely that the problem and/or the client really needs a higher level of service.
Service Limit Strategies

Set Contact Limits

- # of attorney and/or support consults

- requires accurate contact/activity record software
Service Limit Strategies

Set Time Limits

- total attorney and/or support time

- requires accurate timing/billing software
Service Limit Strategies

Automatic vs. Discretionary Enforcement

- strictly enforce service limits setting maximum limits on the case record OR

- give staff/supervisors discretion to enforce limits on a case by case basis
Manage Client Expectations

- Inform clients up front that “we are a limited resource, and there is a limit to our services”

- Avoid giving clients a specific service limit number up front (ex. “everyone gets 5 consults”) since this will encourage more clients to call five times because they think that is “what they have coming to them”

- If the client reaches the limit, they are told that, helped one last time, then the “no more service” goes into effect, so clients are not blindsided
CHALLENGE

• **Study** your number of services per case and graph it (# of clients/# of services). It will be very clear where you should set your limit for number of services.

• **Develop** policies for limiting number of services, and thus improving greater access for all clients, not just some.
V. CONSULTATION STRATEGIES

- Manage the consultation through a structured Q&A, focused on obtaining the relevant facts, not a free floating “narrative” by the client of their life story
- Assess the level of merit
- Assess the level of service needed
- Direct the client’s attention and your advice to what is happening now (and in the near future)
Level of Service

Determine the level of services the client requires as quickly as possible; if they need a higher level of service (direct rep) move them on ASAP. If a client is going to be referred, don’t give a lot of advice that takes up time, and may not be the strategy the referred to attorney is going to want to employ. Other than advice you must give for malpractice purposes, PASS THE CLIENT ON.

If making a referral, make the best referral possible, where you have a high degree of confidence they will take the referral (to avoid return calls).
Depth of Facts

- If you are not doing direct representation, **tailor the depth of information to the limited brief services setting** (ex. the other car was blue, with XXXX license plate number traveling at 37 mph is NOT NECESSARY to know or record if you are not doing direct representation)
Review Documents and Dockets

- Review legal documents necessary to give sound advice (fax in, email in, take picture with their smartphone)

- Review court dockets in all litigated matters, if available to you via the internet, to quickly know the status
Focus on the Now

• Direct the conversation to what is happening now, and not on far future, hypothetical, maybe will never happen issues or events
The Next Step

• Give clients the tools to address the next steps, not the entire process (which may or may not ever happen, or be needed)
Less is More

• Do not spend time explaining any legal concept that is **not pertinent** to the client’s particular situation that they **NEED to know**

• Clients are only able to absorb so much
Length of Consultation

• Limit the amount of time for a consultation, such as half an hour. After that time is up, the client needs to be told, that is all we can cover today, call us back if you need more.
One problem at a time

- Limit each consultation to only ONE legal problem (or maybe 2 closely related legal problems, like child support and domestic violence)
- Invite another consult at another time for other issues
Pro Se Support

• Do not set a *pro se* litigant along a course of conduct that you cannot support in an ongoing manner

• Ex. suggesting a *pro se* client make a jury demand in a case where the client eventually is going have to do motion practice, discovery, select a jury, make evidentiary objections, etc. Can you really help him with all that down the line?

• Always ask: Is this advice going to best serve the client in the long run?
How to Say NO

• Instruct all staff in the art of saying “no”

• Instruct all staff how to explain why there are no resources at your office, or in the legal aid community for the client/his particular situation

• Support your staff when they exercise these policies
CHALLENGE

• **Conduct a study** to see what your brief services attorneys are actually doing and saying in consultations

• Come up with **guidelines** so that brief services are not variable or random, but standardized for efficiency and delivery of the appropriate level of service and advice
VI. ON CALL SUPPORT

- Having a **single “go to” person** to make decisions and answer questions in real time is the most efficient support model.
- **No waiting** for decisions; they are made on the spot.
- **One person’s** time is taken up, not multiple staffers’ time.
- **Chain of command** is clear.
- Decisions “by poll” or “by committee” (and the time vortex this creates) are eliminated.
The “Attorney on Call” Supervisor (AOC)

• **One supervisor** designated every shift to whom all staff go with all problems, questions or issues.

• **Makes legal decisions** (conflicts, what should we do on a legal issue)

• Deals with **technical issues** (the phones are not working)

• **Client problems** ("I demand to speak to the supervisor!")

• The AOC can **always elevate or pass the issue** to another supervisor or legal director, but this eliminates staff directly bombarding other supervisors or other staff

• Tasks or issues not completed in the shift **"roll over"** to the next AOC (automated tasks work best)
The “Paralegal on Call” (POC)

- **One paralegal** every shift is designated as the POC to whom all staff send their requests for support, such as drafting, client call backs, status checks with clients, client letters, scheduling

- Spreads the paralegal **work out equitably** throughout the day and week

- Tasks not finished by the POC “**roll over**” to the next POC (automated tasks work best)
VII. PERSONNEL AND PERFORMANCE METRICS

• **Who you hire** to do legal triage work, and how you measure what they do, is a key to your success.

• Legal Triage is **HARD legal work**, and not a lesser type of law practice.

• There are outstanding attorneys who are **not successful** at hotline work/brief services/legal triage.
Who is generally NOT successful at Brief Services

- Brand new attorneys (who have less ingrained substantive knowledge)
- Attorneys without practical skills (no courtroom experience)
- Attorneys who are very contemplative, who need to think long and ruminate on an issue
- Very sympathetic attorneys who want to help everyone, even outside the limits of the service model
- Attorneys who are too chatty
- Attorneys who lack good judgment, especially about *pro se* capabilities
- Attorneys who cannot talk, think and write at the same time

**Brief Services Attorneys**
Who IS successful at Brief Services

- Attorneys with more legal experience (substantive, courtroom, procedural)
- Attorneys with excellent client interviewing and interrogation skills (good at fact gathering)
- Attorneys who can naturally explain legal concepts to lay people in language they can understand
- Attorneys who are friendly, and can instill confidence, but who can get to the point and end a consultation, politely
- Multitaskers—can do many things at once

Brief Services Attorneys
Basic Performance Metrics

- Once you have the right attorneys in place, you must have **performance metrics** so as to be able to measure the impact of changes/improvements you make.

- Services/hour (2.0/hr)

- Meeting “capacity” expectation of a total number of services per year/quarter/month

- Ex. One FTE attorney can do 2800 to 3000 brief services consultations per year

- Is the attorney meeting these expectations quarterly/annually?
Quality Service

• **Quality** is as important as quantity

• **Limited number of errors**/missed advice seen during case review by supervisors

• **Client feedback** above an acceptable level (ex. average of 4.0 out 5 scale on all measures)

• Are they knowledge sharers, and not just knowledge takers?

• Minimum number of **negative client comments** from Client Surveys or complaints to supervisors (against an average for all similar staff)
• **Develop and convey quantifiable metrics** specific to what is important to YOUR program (ex. number of consults, number of drafting jobs, % of time spent actively involved with clients versus other tasks, contributions to knowledge management, number of referrals against the average, number of trials, win/loss rate, etc.)

• **Evaluate staff** based on these metrics
Common Legal Needs

- Low-income families experience a common range of legal issues affecting their Employment, Finances, Housing, Family and more.
- Legal service providers spend a lot of time responding to the same legal issues.
- Almost 80% of all cases by CARPLS involve a legal issue that has been asked and answered.
Knowledge Management Models

A robust Knowledge Management system can significantly improve an organization’s ability to identify and respond to these common legal needs.

Knowledge Management (KM) is the process of creating, sharing and managing the knowledge and information of an organization.
There are many different KM models.

CARPLS uses Knowledge Centered Support (KCS), a methodology developed by the Consortium for Service Innovation, a non-profit alliance of support organizations.

Under the KCS model, knowledge is created as a byproduct of solving problems.

CARPLS has used KCS to develop an interactive database of legal solutions for more than 1,800 common legal issues.

The solutions represent the combined knowledge and experience of all of CARPLS staff and volunteer attorneys, as well as outcomes from tens of thousands of CARPLS’ clients.
CARPLS KM System:
Search Knowledge library for existing subjects
Does this issue in this case match an existing subject?

<table>
<thead>
<tr>
<th>Subject</th>
<th>Advice</th>
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<th>Social(0)</th>
<th>Legal(0)</th>
<th>Web(0)</th>
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<tr>
<td>D - Tenant seeking return of security deposit - general (CHICAGO)</td>
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<td>C - Tenant seeking return of all or portion of security deposit - tenant disputes amount withheld (CHICAGO)</td>
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<td>B - Tenant seeking return of all or portion of security deposit - successor landlord (CHICAGO)</td>
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<td>I - Landlord being sued for return of security deposit (CHICAGO)</td>
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Select existing Subject to view all applicable content including:

**B - Tenant seeking return of all or portion of security deposit - successor landlord (CHICAGO)**

**Resource brief:**
Legal aid programs do not accept security deposit cases. If the tenant is entitled to return of the deposit the tenant may be able to find a private attorney since the Chicago Residential Landlord and Tenant Ordinance provides for attorney's fees. If the client cannot find a private attorney the client will need to pursue a self-help option. If the tenant cannot obtain the deposit back from the landlord the staff attorney should consider social service agency referrals to help with housing relocation and financial assistance to enable the client to obtain funds for a security deposit on a new apartment.

**Practice brief:**
If the client gave a security deposit to the landlord and the property is later sold or otherwise transferred the successor landlord is responsible for return of the deposit. The prior landlord may also be liable.

**Obligation of Successor:** The successor landlord is liable to the tenant for the security deposit and any interest that may be due. The successor landlord must provide notice in writing within 10 days from the date of the transfer of the property to the tenant. The notice must state that the security deposit was transferred to the successor landlord and that the successor landlord is holding the security deposit. The notice must contain the successor landlord’s name and business address and the business telephone number of the successor landlord’s agent if any. The notice must be either delivered to the tenant or mailed to the tenant’s last known address. [CRLTO 5-12-080(e)]

**Obligation of Transferor:** The transferor landlord remains jointly and severally liable with the successor landlord to the tenant for the security deposit unless the prior landlord transfers the security deposit to the successor landlord and provides written notice to the tenant. The notice must inform the tenant of the transfer of the security deposit within 10 days. Such notice must provide the name business address and business telephone number of the successor landlord or the successor’s agent. [CRLTO 5-12-080(e)]
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Benefits of KCS

Improved Productivity

• KCS allows CARPLS attorneys to work faster by delivering answers to the most common legal problems right to their fingertips

• KCS helped CARPLS increase overall attorney service rate by 20% from 1.8 to 2.17 consultations per hour

• A single CARPLS attorney can handle 3,000 Consultations a year (roughly 1,600 Cases)
Benefits of KCS

Greater Service Consistency

• Having the same knowledge available to all users (senior attorneys, less experienced attorneys, paralegals, volunteers, and law students) at their fingertips means clients get more consistent legal services and advice.

• Advice is not based on what the attorney happens to know, or remember, or can put their hands on.

• The result is a more consistent, more reliable legal work product.
Benefits of KCS

Better Results

- There are often several viable solutions for any legal problem—KM allows you to identify the most cost-effective solutions
- Increased the cases resolved to client’s satisfaction to 73%
- Increased cases resolved on initial consult to 65%
Benefits of KCS

Increased Volunteer Contributions

• KCS reduces the cost of training and supporting volunteer attorneys, allowing CARPLS to significantly expand its volunteer operations

• KCS helped CARPLS increase its volunteer contribution 10 fold, from 800 services a year to over 8,000 services
"He treats every new address like he is the first person to ever drive there, instead of harnessing the collective knowledge of millions of other drivers (and map makers and technologists) before him."
CHALLENGE

• Build a knowledge library by identifying your most frequently asked legal issues.

• Develop content for the top 10% of the legal issues, including:
  • Summary of the law
  • Recommended solutions/resources
  • Forms, letters & pleadings
  • Legal Referrals
  • Social service referrals
  • Online resources
CHALLENGE

• Encourage your staff to interact with the Knowledge Library by including their expertise on the law, strategies and available resources on existing content AND making recommendations on other common issues that should be added to your library.
CHALLENGE

• Early efforts will bring big returns:

• The top 200 (10%) most frequently asked legal issues in the CARPLS library account for two-thirds of all cases served
Questions?

Contact Us!

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312-421-4011