Client Intake and Screening Draft

By Wayne Moore 3/28/2008

I remember having a conversation with John Arango where he maintained that intake was the most important part of any legal delivery system. Now, with more than 30 years of experience in the field, I am convinced he is right. Its importance arises from several factors:

- Intake is the gateway to justice. In a state or region where there are many points of intake with limited capacity and varying eligibility requirements, access to justice will be confusing and fragmented.
- Intake's purpose is to match clients to the services they need. If this is done poorly, clients can be bounced from one service to the next, wasting precious resources as they go and, in some cases, eventually giving up. Intake can preserve limited resources by matching clients to the least expensive delivery system capable of effectively addressing their legal matters. Clients should receive no more and no less resources than they need to resolve their legal problems.
- Intake should be available to vulnerable and hard-to-reach clients and therefore should be performed at "natural" intake sites where clients tend to go when they have a legal problem.

The rest of this chapter discusses these concepts in more depth, describes the basic elements of any intake system, and covers special topics such as case acceptance meetings and active intake. It begins with the most controversial topic, but a topic that can have a substantial impact on increasing access to justice for low-income people.

The Points of Intake Should be Limited and Coordinated.

There are many reasons for limiting intake to a few, coordinated locations, namely to:

- Simplify access to the legal system. Having many intake sites, each with different eligibility requirements and hours of service, is confusing for clients and the community agencies they rely on for referrals.
- Reduce client bouncing. Operating multiple intake sites increases the likelihood that clients will be bounced from one intake site to the next in search of services. The highest priority clients are often the quickest to experience “referral fatigue” and quit looking for help. “Bouncing” is expensive, costing $13-20 per bounce, and is extremely wasteful of limited resources.
- Dramatically reduce the cost of intake and referral. A recent study commissioned by the United Way found that 211 services that were decentralized and independently operated were three to four times more expensive than fewer, coordinated 211 services.[1]
- Allow the maintenance of the referral data base to be centralized. Accurate referrals require three types of information about a provider, namely its: 1) eligibility requirements; 2) case priorities, and 3) current capacity to accept new cases. The last item is the hardest to keep updated as it can vary for each case type.

A recent study for the United Way of 211 services underscores the importance of limiting intake to a few, coordinated locations.[2] The study analyzed the costs of 211 services in 11 states that had operated for at least a year and generally complied with

AIRS information and referral standards. 211 services are similar to legal intake and referral services in that information is collected from the caller to determine what services are needed and referrals are made to appropriate providers. The Study compared decentralized and independently operated 211 services in five states with three hybrid 211 services in three states, where hybrids consisted of a centralized referral database that supported a limited number of coordinated 211 services. One hybrid was in Texas where a central office administers and provides the telecommunication backbone for twenty-five local 211 services and maintains a statewide database. Another was in Minnesota, where a central office coordinates 5 regional hubs with a separate 211 service for Minneapolis/Saint Paul; all use the same database. The third was in Utah where the 211 service in Salt Lake City maintains the statewide referral database and coordinates three other hubs. The decentralized services were in Michigan, New Mexico, Georgia, Florida, and South Dakota. The cost per call of the hybrids ranged from $3.71 to $6.69. The cost per call for the decentralized, independently operated services ranged from $12.67 to $20.03.

The Study found that limiting and coordinating the 211 sites reduced costs because of the:

- Economies of scale; high volume sites are more economical than low volume sites.
- Organizational structure; coordinated hubs using the same database are more efficient.

Using the cost data from the United Way Study, let’s examine two scenarios involving a hypothetical legal aid service area consisting of six independent programs with the aggregate capacity to serve 10,000 clients. Based on LSC data, we know that programs usually turn away as many eligible clients as they serve.[3] Based on Hotline studies we also know that about one third of all callers are ineligible.[4] This means that programs serving 10,000 clients will handle 30,000 calls: 10,000 from ineligible clients, 10,000 from eligible clients who are turned away, and 10,000 from eligible clients who are served.

One scenario is to have one centralized intake site that serves all six programs. The other scenario is to allow each program to independently conduct its own intake. In the centralized scenario the intake site receives 30,000 calls and refers 10,000 to the six providers and turns the rest away. If its referral accuracy is 90%, 1000 calls will be misreferred. If these calls are sent back to the centralized intake site and re-referred, there is a total of 42,000 calls (30,000 initial calls to the centralized intake site, 10,000 calls to the providers, 1000 calls referred back to the centralized intake site, and 1000 calls sent back to the providers). Since the centralized intake site is a high volume site with a referral database, the calls should cost about $5.20 each (median of the range of $3.71 to $6.69. Since the providers are low volume sites, calls should cost about $16.35 each (median of the range of $12.67 to $20.03). 31,000 of calls cost $5.20 each and 11,000 cost $16.35 each for a total of $341,050.

In the second scenario, 30,000 calls are received by the six programs where 10,000 ineligible clients are turned away, 10,000 eligible clients are served and 10,000 eligible clients are referred to another program, because their intakes are not coordinated. It is reasonable to assume that about 5000 of the referred eligible clients are referred a second time to another program.[5] (In reality some of the ineligible clients are also likely to be referred to another program since eligibility requirements vary). This scenario involves 45,000 calls at $16.35 each for a total of $735,750 or more than double that of the first scenario. Even if the 5000 second referrals are not counted, the result is 40,000 calls for a total of 654,000 or nearly twice the first scenario. If the delivery system can serve 20,000 clients, the respective figures are $1,471,500 and $682,100, where the difference of $789,400 could be used to serve more clients.

As you can see, the savings primarily arise from two factors. The first is the ability of one high volume, centralized intake site to benefit from the economics of scale and focus exclusively on accuracy and efficiency, using a centralized data base. The second is the ability to nearly eliminate the number of clients who are referred to a second provider.

Sometimes a picture is worth a thousand words. On page __, on the left is a diagram depicting a decentralized intake system, typical of most states, where every provider conducts its own general intake and refers eligible clients it can't serve to other providers. The "Court SHO" refers to court-based self-help centers. In a populous state, this diagram is usually much more complex involving self-help centers in many courts; several LSC-funded legal aid programs as well as numerous non-LSC funded programs; specialized legal aid programs; one or more legal hotlines; several law school clinics; numerous pro bono projects, often operated separately by each local bar association; and a host of law libraries and other law-related services.

The diagram on the right shows how this same network of programs could be coordinated using a centralized telephone intake center serving an entire state or large region of a big state. In this second diagram, the telephone intake center is the primary, general intake site. It receives all calls made to a single, region-wide telephone number that is used by all clients and referral agencies. The court-based self-help centers and law libraries also continue to conduct general intake, but all their referrals would be sent to the centralized telephone intake center. General intake would be allowed at these locations because they are public places that are natural destinations for people with legal problems. The legal aid and pro bono projects would be allowed to conduct active intake only. Active intake is very targeted intake that is used for finding priority cases, if too few priority cases are received from the central intake site.[6] All the other legal delivery systems would derive their intake from referrals from the centralized intake center. These other programs benefit from centralized intake because establishing and operating an intake system is expensive and the programs should be able to receive what they need from the centralized intake site; if not, they too could conduct active intake.

The diagrams speak for themselves. The one on the left is a chaotic, free-for-all. The one on the right is organized and disciplined, allowing clients to reach an appropriate provider with a minimum of steps.

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[1] O'Shea, D, King, C, et al, National Benefit/Cost Analysis of Three Digit-Accessed Telephone Information and Referral Services, University of Texas, December 2004

[2] Id

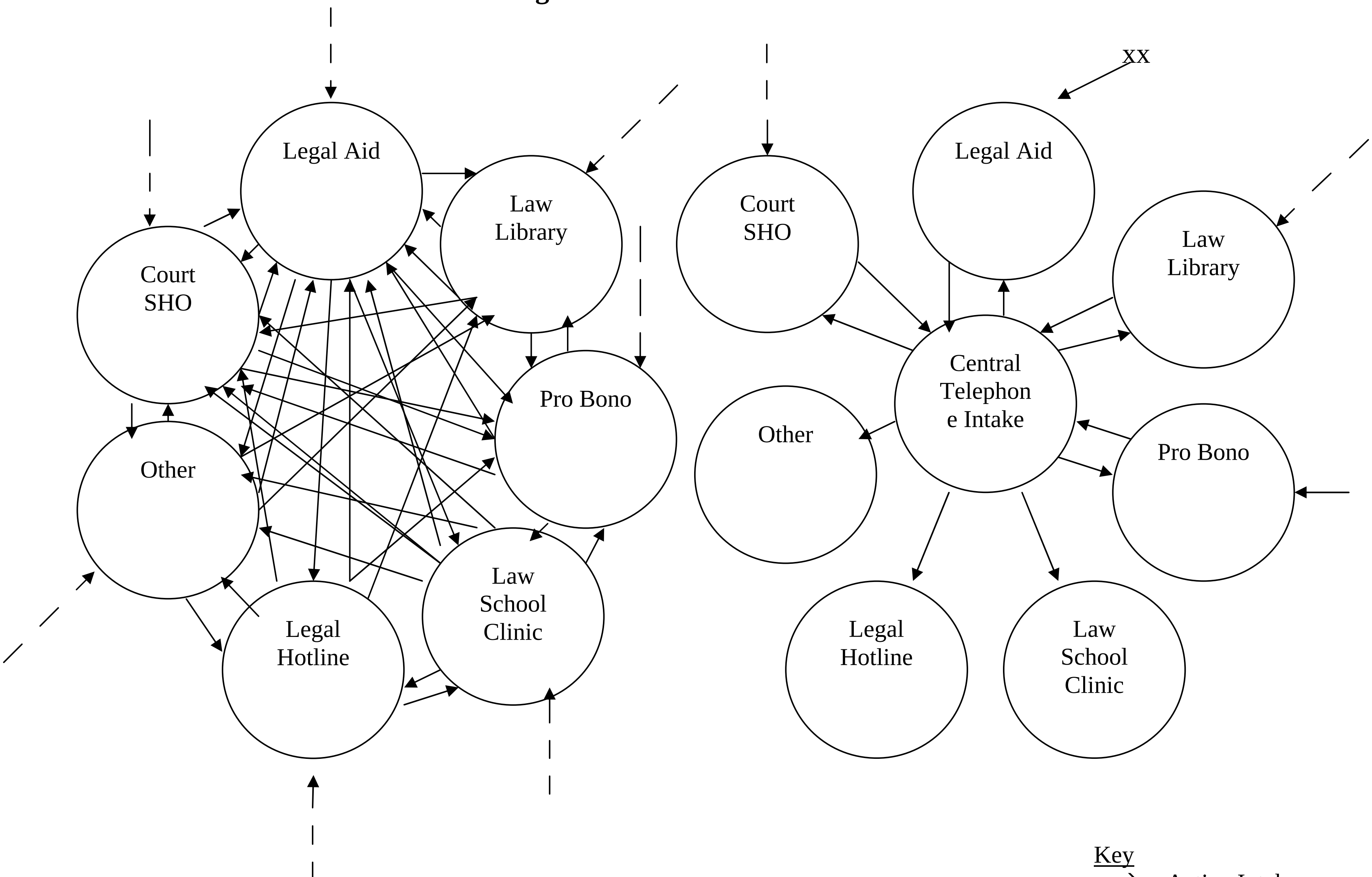
[3] 207 at

[4] 103 at 10

[5] The problem of bouncing was highlighted in an Illinois Legal Needs Study based on client complaints Sarosi, Mary Ann, CARPLES: Coordinating Intake Between 23 Legal Aid Programs, Management Information Exchange Journal, July 1995 at 27

[6] See page ___

Limiting General Intake to a Few Coordinated Sites



Key
xx→ Active Intake
→ Referral
-- General Intake

Intake Should Match Each Client with the Least Expensive Delivery System That Can Effectively Handle the Client's Legal Matter

In order to maximize resources and serve as many people as possible, each case should receive no more (and no less) resources than are needed to effectively handle the legal matter. If the same provider operates multiple delivery system (e.g. hotline, brief services unit, pro bono unit), then the provider's intake system should match each client with the least expensive internal delivery system that can effectively address the client's case. For example, if a client only needs advice, the case should be sent to the hotline. A case that needs extended services should be sent to the pro bono unit whenever possible as it can resolve the matter less expensively than a staff attorney. Similarly if an entity conducts intake for several independent providers, it should match each case with the provider that can handle the matter at the lowest cost.

Additionally, each legal services provider or each delivery unit within the same provider should have procedures that identify cases which have been mis-referred, so they can be transferred to the appropriate, lowest cost unit or provider. Low income people should receive the same level of services as paying clients, but even paying clients do not want to pay for more services than they need.

Other Important Purposes of Intake Services.

Another key function of the intake process is to collect information about clients who cannot be served, so that the gaps in the delivery system can be identified. This information can form the basis of requests for more funding and guide the allocation of any new funds that are received. The intake process can also identify problems in the delivery system such as providers or units within the same provider that reject cases that should be accepted or fail to handle a reasonable number referrals. Finally, intake can help identify new issues that adversely affect the client community that should be addressed by impact advocacy.

Since intake is the first and sometimes only contact that people have with the legal system, it must be perceived as being fair and respectful. Otherwise it can ruin the reputation of a legal services program in the low-income community. How callers, who can't be served, are treated is particularly important, because eligible callers should not be discouraged from calling back with another legal matter. Research has shown that people who experience poor service share this fact with an average of four of their peers, who consequently avoid using the service.[7] Therefore, legal services providers can easily gain the reputation that they don't really help people, if they handle intake poorly.

General Intake Services Should be Located at "Natural" Points of Intake.

Since the number of intake sites should be limited, general intake should primarily be conducted at "natural" intake sites.

Clients seeking help with a legal matter usually take one of several actions:

- Make a phone call
- Travel to a court
- Visit a community agency where they live or work
- Visit a government agency

Intake services should be located at these natural intake points. To locate intake elsewhere requires extra expense by both the provider and the clients. The provider's extra expense is the cost of publicizing a location that clients otherwise would not find. Also these providers are more likely to have "no-shows" if prospective clients have to travel to an unfamiliar location. No-shows are an added expense to a program because part of the intake process either must be repeated or is wasted on a client who is not served.

The client's extra expense is the cost of making a special trip to the location. Even the task of figuring out how to make this trip using public transportation can be a substantial barrier to seeking services. My experience is that an intake site that is not located at a natural intake location will require a year before it is well known in the client community and reaches full capacity, even though the services are free. A discussion of each natural intake site follows:

A. <u>Telephone</u>

Since this is the method that most clients use to find legal services, the telephone number should be easy to find and use. That is why some states have established a single 800 telephone number for obtaining free legal services in the state. To realize the economies of scale, this number should be answered at a statewide intake center or a regional intake center in a large slate. Alternatively, a single telephone number can be used by multiple providers, as technology is now available that will automatically direct a call to the right provider based on the location from which the call originates.[8]

B. <u>Court</u>

The court is natural intake point because this is often where people go when they need a court decision. Experts on court-based self-help centers argue that it is preferable to locate the center in the courthouse than somewhere nearby.[9] This is because the court assumes more "ownership" of a site that is located within the courthouse. This ownership can take the form of a greater willingness to make changes to accommodate the needs of the center, such as creating better signage or to simplify procedures or court forms to allow the center to operate more efficiently. These experts even recommend accepting cramped quarters in order to get a foothold in the courthouse. Judges are often willing to give these centers more space when they realize how they enhance services to the community and the reputation of the courts.

C. Locations where the clients live and work

These sites should be located at places that are convenient to public transportation. If they are located inside the offices of another organization, the organization should have good security and serve a large number the target population. Unfortunately some entities that fund legal services do not understand the principles of efficient intake. For example, funders of legal services for seniors often want intake to occur at senior centers or nutrition sites which serve a small, regular clientele. As a result the same clients receive all the services and intake volumes are usually low. It is far better to be located in a multi-service center or even a very large church, although members of other religions may be reluctant to use services located in a different church.

D. Government agencies

I’ve always wanted test the use of a mobile van to conduct legal intake that is parked outside a key government agency on designated days, such as the Social Security Administration or a state welfare office, as this is where people go who are having trouble with their benefits. I believe this would make these agencies far more accountable to their clientele.

The Key Elements of The Intake Process

A. Telephone System

If an intake site uses an automated call answering system, it should be programmed to minimize the number of steps the client must take in order to reach a live worker, as these systems can be very confusing to certain low-income people. However, a message that is automatically played before a caller is forwarded to an intake worker can be useful. For example, the message can make it clear that the program does not handle certain types of cases (e.g. criminal) or clients (e.g. those outside the service area). Some providers have used a few recorded questions to identify callers with emergencies in order to give them priority treatment.[10] A call forwarding capability is critical so that the caller can be referred to the least expensive delivery system. If possible, the intake worker should forward the call to the referral source and introduce the client to the referral agency a process known as a warm "referral"; percentage of referrals are unsuccessful unless the intake service directly connects the caller to the ultimate provider.[11] The cost of making these "warm" transfers used to be a barrier, but with voice-over _____, the cost is very manageable.[12]

B. Referral Database

The intake service needs a good referral database. The referral database should contain contact, eligibility and case priority information for each legal services provider. But if a provider currently doesn't have the capacity to accept an otherwise eligible, high priority client, the referral will be unsuccessful and possibly worse if the program begins bouncing the caller to other providers. Thus, the intake service must also have current capacity information for each type of legal problem handled by each legal services provider. Maintaining this information is time consuming, especially in states with many legal services agencies.[13]

C. Referral Protocols

Protocols are essential for matching a caller and his or her legal matter to the lowest cost provider. The protocols must capture the obvious information for matching such as the client's geographical location, income/assets, case type, and key demographics. But the protocols must also collect the information necessary to determine which delivery systems are appropriate to handle the client's legal matter. The chapter on Legal Hotlines discusses the types of clients and legal problems that are appropriate for a hotline and the types that aren't.[14] The protocols must be able to accurately make this determination. Some court-based self-help centers have begun to develop triage methods to identify clients who are not able to represent themselves in court.[15] This also needs to be incorporated into the protocols. Even pro bono programs can not handle all clients or case types depending on the expertise and people skills of its volunteers. Obviously the development of adequate protocols is a major undertaking requiring considerable research and therefore needs the support of LSC or a major state funding source.

Once protocols are developed, an intake service should follow-up with clients to determine the outcomes of their problems in order to refine these protocols.[16]

D. Saying "No"

If no free services are available to handle a client's problem, it is better to inform clients of this fact at the point of initial intake than have clients experience the frustrating process of learning this for themselves. This also avoids the expensive "bouncing" process. The sooner a caller realizes no free legal services are available, the more time the caller has to explore alternative services such as mediation or unbundled legal services from private practitioners.

E. Order of Referral

The limited data that is currently available suggests that the cost of services rank in the following order with the lowest cost services ranked first. When better information becomes available, this may change.[17]

- Legal information and document preparation assistance provided by written materials, cable access TV, videos, kiosks, legal websites, etc.
- Legal information provided in a group presentation
- Legal information and document preparation provided by a court-based self-help center
- Legal information and document preparation provided by neighborhood-based self-help centers
- Telephone advice (e.g. hotlines)
- Face-to-face advice
- Legal advice and document preparation provided by a staff-run brief services unit or a pro se clinic/workshop
- Pro bono attorney services
- Extended representation by a paid paralegal
- Extended representation by a paid attorney

F. Provision of information

The intake service should try to resolve simple matters which only require routine information, either using a fact sheet or an interactive software program. This is far more efficient than referring the case to another provider. Protocols should be used to insure the matter can be resolved with simple information and has no hidden complications. In this situation, the intake worker is really serving as a navigator by finding the needed information and reading and/or sending it to the caller, rather than directly counseling the caller. This information component should not detract from the major goal of intake, which is to screen clients and link them to the lowest cost services.

G. Mis-referrals

Callers should be told to call the intake service back if the referral is unsuccessful; this helps the intake service refine its referral protocols and database. It also avoids the "bouncing" process and helps the legal services providers better coordinate with the intake service.

H. Evaluation

The intake service should have an evaluation process in place. This should include client satisfaction surveys. The survey should ask whether the initial referral was successful and, if not, what the client did. See Chapter ________ for more information about client satisfaction surveys.[18] Legal services providers should be contacted periodically to assess the success of the referral process and the feedback should be used to better coordinate services.

I. Quality Control

The supervisors of many professional call centers periodically listen in on calls to assess the quality of the content and the helpfulness of the intake workers. This helps workers to improve their services. The intake workers should also take detailed notes about the caller's matter, if they provide him or her with legal information, and keep copies of any protocols that were utilized and the information that was provided. These information cases should be reviewed by a supervisor until he or she is confident of the level of quality. Thereafter periodic checks should be satisfactory. As mentioned above, a key quality control measure is to follow-up with callers to determine the outcomes of their cases to help refine protocols and update the referral database.

J. Service to Non-English Speaking Callers

Intake services that receive a significant volume of non-English speaking callers should employ bi-lingual workers for the most commonly spoken languages. This can be supplemented by a service such as Language Line where a professional translator can be conferenced into the telephone call.[19]

Also, it is helpful to have a taped, introductory message for callers to explain how non-English speaking callers can access the intake services. Otherwise the caller may be intimidated when the call is answered in English and hang-up.

K. Record Keeping

Sufficient records should be kept so that the intake service can review past notes for repeat callers, particularly to identify instances where a caller was recently served by another intake worker. This will help catch mis-referrals and allow workers to reinforce earlier guidance that the caller may have misunderstood.

L. Best Practices

The Association of Information and Referral Sources has developed model standards for providing information and referral.[20] These standards are discussed in more detail in Chapter ___ on Referral.[21]

A Note on Case Acceptance Meetings

Many legal services providers are wedded to using case acceptance meetings as part of the intake process. These meetings usually occur weekly or sometimes bi-weekly and include most of the advocates working in an office or unit. This can include a half-dozen or more advocates who spend 2 or 4 hours in the meeting. The group discusses the facts of each case, the issues involved and whether the case should be accepted for representation. Programs support this practice by saying that it is a good way to spot issues that individual advocates might miss and to brainstorm strategies. It also builds camaraderie and serves as continuing legal education for less experienced attorneys.

This practice is hard to justify for several reasons. First, it delays the decision as to whether the case will be accepted for representation by up to a week or more. Often the client is anxious about the matter and agonizes during the delay. This also makes it harder for the client to find alternative services if his or her case is rejected and a key deadline is approaching. Second, these clients must be re-contacted after the meeting to be informed of the decision and the alternatives. These calls are not required if the caller is informed about case acceptance earlier on the process. Third, since programs turn away as many eligible clients as they serve, much of the time spent in the meetings and on the follow-up calls is used on cases that are not accepted for representation. Fourth, the cost of these meetings is substantial. If one assumes that the meetings are weekly and average three hours, then advocates spend 156 hours annually in these meetings. Typically an advocate works ___ billable hours a year,[22] which means advocates spend about 9% of their billable time in meetings which could be used for case services or impact advocacy.

If programs value the meetings of advocates, some time can be devoted to meetings about complex cases that the advocates are actually handling, rather than on meetings spent primarily on intake. Furthermore this offers a better learning experience for inexperienced lawyers since the focus is on complex issues and litigation strategies, rather than issue spotting, which is well covered in law school.

Active Intake

Active intake is an outreach and intake mechanism for finding clients with specific legal problems. There are several reasons for using active intake, namely to find:

- Cases for underutilized pro bono attorneys
- Cases that will help address a systemic problem faced by the client community;
- High priority cases
- Cases that will stop an entity from exploiting a client community (i.e. a predatory lender); and
- Cases requiring extended representation if other sources of intake do not yield a sufficient number of these cases.

Active intake is intended to supplement and complement general intake. The diagram on page __ represents a centralized intake system that utilizes active intake. In order to reduce and coordinate the number of general intake sites, the legal aid and pro bono programs do no conduct general intake. Instead they use active intake to supplement the referrals from the centralized telephone intake center in case the referrals don’t yield: (1)

a sufficient number of high priority cases (2) the cases needed for impact advocacy, or (3) a mix that matches the expertise of the pro bono panel. Active intake only accepts a limited range of cases. Any other legal problems encountered during active intake are referred to the central intake site. Active intake should not be a loophole through which a program can circumvent a limited and coordinated general intake system. There are three primary ways to conduct active intake: (1) hold a clinic at a convenient location in the low income community (2) participate in a community event and (3) engage in networking.[23]

A. Clinics: These clinics are usually held in neighborhoods that are underserved by legal services programs. They are typically held in partnership with a community agency that serves the same client group. A community agency should be selected that has space that can be used for the clinic. The clinic relies on the partner agency to use its normal client communication channels to publicize the clinic. This can be combined with mailings or flyers. Clinics work best if the partner agency schedules appointments for the clinic. This can be supplemented with walk-in clients. The clinics need to be held in a space which accommodates a confidential discussion and should have a area for those waiting for an interview. Clinics repeated at the same site usually benefit from the publicity generated by the earlier clinics. Of all the active intake methods, clinics are the most time intensive, but have the advantage that they can be held at locations where clients with the targeted legal problems are likely to congregate. If conflict checks can't be conducted at the site, clients should be told that representation is conditioned on a subsequent conflict check.

B. Community Events

The advantage of participating in a community event is that others are responsible for the publicity and logistics. The disadvantage is that holding a confidential conversation is difficult and some people will be reluctant to approach a legal aid booth where others may see them. Often the best approach is to conduct quick screenings at the event and then follow-up by phone for a more detailed intake interview. At both community clinics and community events, self-addressed stamped envelops should be distributed so that clients can mail any documents that are needed by the advocates.

C. Networking

This consists of contacting community agencies that serve client groups that are being targeted by the active intake program. Ideally, these agencies should be asked to e-mail the names and contact information for clients experiencing the types of cases that are being sought. Four basic steps are helpful for this process: (1) identify agencies that are potential sources of clients, (2) initiate contact with them, (3) develop a customized referral procedure with each source, and (4) periodically recontact each source.

The customized referral procedure might include a checklist or protocol to insure that the client who is referred has the problem that is being sought and is eligible for the legal aid program. Legal aid programs should periodically recontact each referral agency to check on their satisfaction with the process and to encourage them to keep sending clients.

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[7] Verde Group, Customer Dissatisfaction Study, Verde Group, February 2006 at www.verdegroup.ca/default.asp?action=articleBID=37

[8] See, for example, www.lri.lsc.gov/state_planning/rrwstp/ohfd.htm

[9] Conversation with

[10] See www.lstech.org, Telephone and Technology systems phone feature list and definitions

[11] The Family Relationship Centers in Australia recommend warm referrals as the most successful referral methodology based on their research. Australian Dept. of Families, Housing, community services

and Indigenes Affairs, Operational Framework for Family Relationships, FaHCSIH, July 2007, pgs 56-63 at www.ofw.facsia.gov.au/internet.nsf/VIH/frsp-07-08/file/FRSP_operational_framework.pdf

[12]

[13] CARPLS maintains a database for all providers in Chicago that includes eligibility requirements, case priorities and current capacity. See Sarosi, supra fn 5, at 28

[14] See page

[15]

[16] CARPLS found feedback on mis-referred cases to be very helpful in keeping the referral database up to date. Sarosi, supra fn 5, at 28

[17] See pages

[18] See page

[19] See www.languageline.com

[20] 12

[21] See page

[22] See page

[23] See generally Miller, Sheryl, Active Intake Project: A "How-to" Manual, Legal Counsel for the Elderly, 2003 at www.aarp.org/states/dc/dc-lce/