

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

December 30, 2019

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott Saiki
Speaker and Members of the House
of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

SUBJECT: REPORT IN ACCORDANCE WITH HOUSE RESOLUTION 126 (2018) URGING THE STATE OF HAWAII DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF THE ATTORNEY GENERAL TO CONVENE AND PARTICIPATE IN THE HAWAII LEGAL AID INTERAGENCY ROUNDTABLE TO BETTER SERVE LOW-INCOME, VULNERABLE, AND AT-RISK POPULATIONS AND INCREASE THE AVAILABILITY OF MEANINGFUL ACCESS TO JUSTICE FOR FAMILIES AND INDIVIDUALS IN THE STATE.

Dear President Kouchi, Speaker Saiki, and members of the Legislature,

Attached is the following report submitted in accordance with:

- HOUSE RESOLUTION 126 (2018) URGING THE STATE OF HAWAII DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF THE ATTORNEY GENERAL TO CONVENE AND PARTICIPATE IN THE HAWAII LEGAL AID INTERAGENCY ROUNDTABLE TO BETTER SERVE LOW-INCOME, VULNERABLE, AND AT-RISK POPULATIONS AND INCREASE THE AVAILABILITY OF MEANINGFUL ACCESS TO JUSTICE FOR FAMILIES AND INDIVIDUALS IN THE STATE.

In accordance with section 93-16, HRS, copies of these reports have been transmitted to the Legislative Reference Bureau Library and the reports may be viewed electronically at <http://humanservices.hawaii.gov/reports/legislative-reports/>.

Sincerely,

Cathy Betts
Deputy Director

AN EQUAL OPPORTUNITY AGENCY

December 30, 2019

Page 2

Ecopy only:

Office of the Governor

Office of the Lieutenant Governor

Department of Budget & Finance

Legislative Auditor

Senator Russell E. Ruderman, Chair, Senate Committee on Human Services

Representative Joy A. San Buenaventura, House Committee on Human Services & Homelessness

REPORT TO THE THIRTIETH HAWAII STATE LEGISLATURE 2020

**IN ACCORDANCE WITH HOUSE RESOLUTION 126 (2018) RELATED TO THE
HAWAII LEGAL AID INTERAGENCY ROUNDTABLE**

**DEPARTMENT OF HUMAN SERVICES
OFFICE OF THE DIRECTOR
DECEMBER 2019**

I. Background

House Resolution 126 (2018) urged the Department of Human Services (DHS) and the Department of the Attorney General (ATG) to convene a Hawaii Legal Aid Interagency Roundtable to better serve low -income, vulnerable, and at-risk populations and increase the availability of meaningful access to justice for families and individuals in the state.

The House Resolution further requested a report be submitted to the Legislature by January 1, 2020.

With the leadership of the Hawaii Justice Foundation (HJF), grant funds it received were used to fund a position to convene the Hawaii Legal Aid Interagency Roundtable. DHS and ATG supported the effort by providing additional logistic and convening support.

DHS submits the following report¹ prepared by the HJF grant funded project coordinator to fulfill the House request.

II. Hawaii Legal Aid Interagency Roundtable

Process: Examine current civil legal services offered by executive agencies, underutilized federal funding opportunities, and the current need of Hawaii residents; organize executive agencies under Hawaii Legal Aid Interagency Roundtable and create buy-in and momentum to incorporate civil legal services into programs through appropriate federal funding streams and to breakdown silos between departments and agencies; and implement projects as appropriate.

Background: The civil legal needs of Hawaii residents are great. The most recent assessment of civil legal needs of low- and moderate- income people showed that 1 in 5 low- and moderate- income residents has their legal needs met. Legal service providers found that they could only assist 1 in 3 of those who contact them for assistance.² At the time of the assessment, the civil legal needs with the greatest unmet needs were housing, family law, domestic violence, and consumer law. Unmet civil legal needs do not go away with time, instead, they are often compounded and grow to be more costly, burdensome, and complex if not resolved.

Who and How is Hawai'i Providing Civil Legal Services

Whether the funding is federal or state, the majority of publicly funded civil legal services are provided through contracts with non-profits or community agencies. As mentioned above, there is a shortage of legal service providers who can assist low- and moderate-

¹ Note, there are technical revisions to the initial draft report for clarity.

² *Achieving Access to Justice for Hawai'i's People: The community wide action plan: Ten action steps to increase access to justice in Hawai'i by 2010 and the 2007 assessment of civil legal needs and barriers of low- and moderate-income people in Hawai'i.* (2007), available at: <http://25shu2g61cw30sin46t4k87by.wpengine.netdna-cdn.com/wp-content/uploads/2014/07/Access-to-Justice-Hui-Report- 10-26-07 -Final11.pdf>

income people with their civil and quasi-civil legal needs. Hawaii has only one legal service provider that receives funding from the Legal Services Corporation³ - the Legal Aid Society of Hawaii (LASH). LASH is currently the only civil legal service provider that is working on an array of issues, including:

- Family law;
- Housing;
- Immigration;
- Public Benefits; and
- Consumer.

Other legal service providers may have more specialized legal services, like the Domestic Violence Action Center (DVAC). DVAC offers legal assistance for victims of intimate partner violence and services may include family law, housing, and immigration. For some state contracts, there may be more than one service agencies who partner and share the workload, each providing assistance in their area of strength.

The scope of a State program should dictate that a robust offering of legal services is necessary from the contractor(s) or if the provider should be specialized. Additionally, the amount of people needing to be served and where they are located would also impact who is awarded a contract.

All federal funding sources dictate what services are allowed, and often, who can receive the services. The state can increase the impact of federal funding by adding state funds to a grant or contract or by issuing a supplemental grant or contract award to cover people, locations, or services not included in the federal opportunity.

There are several steps a department must take before they may issue a contract, beginning with securing the appropriation or grant, following the procurement process with the Request for Proposals (RFP), and consideration of competitive bid. The department may also release a Request for Information (RFI) prior to releasing an RFP. More information can be found on the State Procurement Office website. A brief overview of the competitive bid process is provided below:

- Identify need;
- Market research;
- Finalize service specifications;
- Determine contract type;
- Competitive sealed bid process;
- Contract management; and
- Close out contract.

³ An independent corporation created by Congress and charged with distributing government funds, LSC is governed by federal law.

It may be required from the federal funding source that the administrative agency undergo a community-involved planning process. This can take the form of a RFI, where the public is asked to provide comments on an agency's planning activities and preparation for solicitation. It should be noted that both the RFI and RFP process are under direction of state statutes and certain details, like time a RFI must be posted, are dictated by law.

Other considerations when utilizing federal funding sources for non-profits or community organizations: reimbursement, matching funding, and federal oversight.

- *Reimbursement model:* Many of the federal funding sources, as with other federal programming, mentioned below are provided through a reimbursement model. The reimbursement model is common for grants and contracts however, the federal reimbursement process can be lengthy and impact a small organization's ability to make payroll or pay for necessary services.
- *Match funding:* Several federal funding sources require the state to provide a match in funding through general funds. Additionally, federal funding cannot supplant state funding for services. A state or local government cannot reduce state or local funding because federal funds are available. A state or local government most often supplements federal funding in the same area, usually by funding services to a population not eligible for federal funds, such as residents who are not U.S. citizens, or residents who are slightly above a particular federal poverty threshold.
- *Federal Oversight:* To ensure quality and quantity of services related to federal funding, the reporting requirements by a grantee can be costly and burdensome. Like state grants/contracts, federal funding also limits the amount of funds that can be spent on administrative services or overhead, to ensure most of the money is being spent on services or programming. However, the administrative needs of a service organization are often greater than what is allowed, and this is especially true regarding performance measures and outcomes. For a small organization, the reporting requirements can become prohibitive to applying for funding.

III. Current Delivery of Civil Legal Services

Hawaii departments offer civil legal services through a variety of programs. The Department of Human Services and the Attorney General's Office offer the majority of civil legal services through State and federal funding. Additional legal services are also offered by the counties with federal funds. The departments and legal services listed below are not exhaustive and are meant to be a sample of what is happening and what is possible.

Department of Human Services (DHS)

DHS oversees programs aimed at helping Hawaii’s most vulnerable people and provides multiple benefit programs like Temporary Aid to Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP). DHS also includes the Homeless Programs Office (HPO), Child Welfare Service, and Hawaii Adult Protective Services. DHS has provided civil legal services in the past through TANF, HPO, and through their own initiative.

TANF allows states to use their Maintenance of Effort (MOE) funds and their TANF funds to provide legal services, as long as the legal service supports the purpose of the program. Hawaii has been providing legal services for domestic violence survivors, a forward-thinking initiative that supports the survivor and their family in attaining self-sustainability.

Below are examples of the types of contracted services DHS procured for civil legal services.

Date Awarded	Title	Original Award Amount	Awardee	Description	Island
07/01/2018	Legal Services in Domestic Violence Shelters	\$100,000.00	LEGAL AID SOCIETY OF HAWAII	Service activities under this contract include providing legal and advocacy services to domestic violence survivors currently staying in, or eligible for entry into, domestic violence shelters administered by the DHS such as such as helping survivors obtain safe housing and employment, secure medical care, obtain a work card and, or a social security card, establish immigration status, secure a TRO, obtain child custody, and other associated activities.	Hawaii, Kauai, Lanai, Maui, Molokai
07/01/2018	Legal Services for Immigrants Experiencing Domestic Violence	\$200,000.00	LEGAL AID SOCIETY OF HAWAII	Service activities under this contract include providing legal and advocacy services to immigrant domestic violence survivors such as helping survivors obtain safe housing and employment, secure medical care, obtain a work card and/or a social security card, establish immigration status, secure a TRO, obtain child custody, and other associated activities.	Statewide
04/07/2017	Domestic violence advocacy services to TANF recipients statewide	\$110,000.00	Legal Aid Society of Hawaii	Service activities under this contract include assistance with temporary custody, visitation and support; temporary restraining orders; divorce including child custody and child support; housing issues including landlord eviction defense or negotiation, public housing evictions, grievance, illegal lockouts or utility shut offs; consumer law including debt collection, bankruptcy or consumer credit matters; employment issues including domestic violence accommodations by employers, unlawful termination due to domestic violence issues and unemployment compensations for domestic violence issues	Statewide
01/05/2017	State Homeless Outreach Program	\$350,000.00	Legal Aid Society of Hawaii	Assist homeless persons to obtain identification documents	Statewide

Office of the Attorney General

According to the 2016 Victims of Crime Act Fund Annual Performance Report,⁴ 25,290 individuals sought services related to being a victim of crime. Of those 25,290 individuals, over 12,000 sought services related to domestic violence and family violence. Survivors of domestic violence have the greatest need for civil legal services. One study found that domestic violence survivors had twice the legal needs of the average low-income person.⁵ The Department of the

⁴ <https://ojp.gov/ovc/grants/VOCA-Victim-Assistance-FY-2016-State-Performance-Report/hi.pdf>

⁵ *Key studies and data about how legal aid assists domestic violence survivors.* (2019) American University, Justice in Government Project. https://www.american.edu/spa/jpo/toolkit/upload/Domestic-violence_4-22-19.pdf

Attorney General oversees and distributes the federal Victim of Crime Act (VOCA) fund aimed at providing direct services to victims of crimes, regardless of their crime type or involvement in the criminal justice system. Between 2016 and 2018, the amount of funding for VOCA has increased. See table below. The state has two years to spend down funds and there is a 20% federal match requirement (states can apply for a waiver of match funding and Hawaii is doing so for some existing projects to allow them to expand; however, the funding requires maintenance of previous match amount). Additionally, individual projects are capped at \$800,000 and agencies or programs can apply for multiple projects. Due to the stringent requirements by the federal oversight agency, it can be difficult for smaller programs in our state to receive VOCA funding.

<i>VOCA Victim Assistance Grants (in thousands)</i>									
	2010	2011	2012	2013	2014	2015	2016	2017	2018
TOTAL	412,134	428,081	379,670	425,207	455,790	1,958,83	2,219,900	1,846,507	3,328,058
Alabama	6,323	6,626	5,864	6,537	6,973	29,522	33,245	27,566	49,343
Alaska	1,364	1,410	1,307	1,416	1,484	4,909	5,476	4,629	7,912
Arizona	8,656	8,692	7,739	8,705	9,373	40,786	46,514	39,074	70,800
Arkansas	4,073	4,237	3,781	4,192	4,463	18,253	20,570	17,131	30,602
California	46,205	48,244	42,593	48,127	51,829	232,723	264,297	218,943	396,642
Hawaii	2,102	2,243	2,035	2,243	2,380	8,996	10,148	8,451	14,803

The Department of the Attorney General maintains a list of VOCA grantees. However, the list below shows the majority of services aimed at victims do not address their civil legal needs. With the increase in funding, there is an opportunity for new applicants to support the civil legal needs of crime survivors.

FY 2017 VOCA Victim Assistance Sub-Grantee Awards		
Parents and Children Together	DV Trauma Support and Immigrant/LEP DV Awareness	\$449,279
Kids Hurt Too Hawaii	VOCA KHT	\$507,552
Child and Family Service	Sexual Abuse Counseling and Screening for Youth	\$812,900

Child and Family Service	Enhancing Vital Sex Assault Services in Maui County	\$400,000
Women Helping Women	Community Based Advocacy Programs	\$150,000
Legal Aid Society of Hawaii	Legal Assistance to Victims of Crime	\$349,701
YWCA of Kauai	Enhanced Clinical, Children's, and Housing Services for Victims of DV	\$316,726
Hale Kipa	Commercial Sexual Exploitation/Trafficking Assessment Center/Shelter	\$400,000
Kokua Kalihi Valley	Towards a Trauma-Informed Kalihi: Healing Through Community Resilience	\$372,586
The Sex Abuse Treatment Center	Helping Victims Heal: From Crisis to Counseling	\$340,800
Catholic Charities	Counseling Center Treating Victims of Child Abuse and Crime Prevention Program (TVCACP)	\$320,000

Crime Victim Compensation Commission	Mass Violence Planning	\$8,632
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ATG VOCA fund administrators use the RFI planning process prior to issuing a RFP and engage the community to determine the underserved and priority populations and services. Federal regulation mandates that 10% of the State’s funding goes to specific populations:

- Sex Assault;
- Domestic Violence;
- Child Abuse; and
- Underserved Population (i.e., Hawaii’s definition of undeserved includes victims of assault, adults molested as children, victims that are tourists/visitors, immigrants/victims with Limited English Proficiency, elderly, persons with disabilities, survivors of homicide/negligent homicide, victims of DUI/DWI, victims of property crimes, victims of sex trafficking, LGBTQQ victims, and those victims of crime residing in rural or geographically isolated areas).

The ATG’s office also receives money from the Social Security Act Title IV-D fund through the Child Support Enforcement Agency (CSEA). Title IV-D funding supports child support enforcement and must be spent on activities directly related to child support collection or establishment of paternity. Title IV-D funding is reimbursed at a 1/3 to 2/3 state to federal ratio. There is no cap on the funding the State can receive.

The federal Office of Child Support Enforcement (OCSE) recently revised its rules in 2016, including guidance on funding self-help services. The Self-Represented Litigants Network provides resource materials related to establishing self-help centers through Title IV-D funding.⁶ There is an opportunity for the state to better serve families involved with CSEA by establishing a staffed self-help center at the Kapolei Family Court through a partnership with the state judiciary. The funding necessary from the State would be minimal in relation to the potential positive outcomes for child support collections and families.

Additional Federal Funding Streams

The State also acts as a pass-through entity for additional funding streams.

Workforce Innovation and Opportunity Act fund (WIOA): Funds the American Job Centers (AJC) across the state. The Department of Labor and Industrial Relations (DLIR) oversees the State Workforce Development Council. Each county has their own Workforce Development board

⁶ Self-Represented Litigation Network Resource Guide Use of Title IV-D Child Support Program Resources For Court Based Self-Help Services, https://www.srln.org/system/files/attachments/SRLN%20Title%20IV-D%20Resource%20Guide%20Revised%2012%202017_0.pdf

and American Job Center (AJC). The centers offer training referrals, career counseling, job listings, and similar employment-related services.⁷ The AJCs have a list of required partners, including TANF and Unemployment Insurance programs. WIOA issued guidance in the final rules that allow for legal services as an allowable support service. Thus far, two AJCs have created policy guidance to allow expenses for legal services, Tulsa, Oklahoma and South Carolina. At the time of writing this, the AJC on Oahu was in the process of incorporating legal services into their supportive service policy.

Community Development Block Grant (CDBG): Administered by the federal Department of Housing and Urban Development (HUD), with the purpose is to “ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.”⁸ In Hawaii, the counties are responsible to oversee CDBG funds. Civil legal services are an allowable project through CDBG and should be pursued in the future.

Older Americans Act Title III (OAA) – the goals of the OAA are to:

- Secure and maintain maximum independence and dignity in a home environment with appropriate supportive services;
- To remove individual and social barriers to economic and personal independence; and
- To provide a continuum of care for vulnerable older adults.

The counties are responsible for distributing funding and overseeing the programs attached to OAA. Legal services are allowed and all the counties except Honolulu currently fund legal services through a contract with LASH.

Competitive Grants

The use of competitive federal grants can also expand the State’s access to justice initiative. Recently, grants from the Department of Labor, Department of Justice, and the Substance Abuse and Mental Health Services Administration were issued which could incorporate legal aid as a supportive service. The departments and agencies should continue to apply to federal competitive grants as they become available.

Additional resources

Karen A. Lash, Practitioner-In-Residence and Director of The Justice in Government Project, School of Public Affairs, America University, presented in February 2019 to a cross-sector group of government agencies and her presentation was made available to the Justice for All (JFA) committee of the Hawaii Access to Justice Commission.⁹ The presentation contains additional information that can assist in the continuation and maintenance of efforts.

⁷ <https://www.dol.gov/general/topic/training/onestop>

⁸ https://www.urban.org/sites/default/files/publication/89551/cdbg_brief.pdf

⁹ See also, <http://www.hawaiijustice.org/haic/justice-strategic-plan>.

Ms. Lash also offered to continue her consultation role for the foreseeable future. The American University's Justice in Government Program has a toolkit that contains information on the most recent research on legal aid and certain topic areas, information on state examples, and some additional tools.¹⁰ A copy of the toolkit was given to the participants of the roundtable as a resource for future work.

IV. Areas for consideration

One issue raised by the Roundtable participants was the lack of service providers, especially when speaking about providing services to neighbor island residents. A question was raised about individual attorneys forming a hui to deliver services for a small number of people. The Roundtable did not have an opportunity to explore this issue, however, it is an issue worth looking at in the future.

Another area the Roundtable participants thought would be helpful was better communication between the Access to Justice Commission, Justice for All (JFA) groups, and the executive agencies. For many executive agency staff, they were unfamiliar with the previous work of the Access to Justice Commission or current ways legal service providers offer services. Collaborations could be very beneficial to the greater community. An example of this is the popup clinic between Volunteer Legal Services and The Executive Office on Aging. There was a great desire for more collaboration and sharing of services to increase access for the most vulnerable.

Another suggestion is a crossover project between the Roundtable and the Community Navigators. Several of the Roundtable members expressed a desire for training for agency employees or contracted service providers that gives information on what civil legal issues are, how to spot a civil legal issue, and possible referrals.

Over the course of the project, expungement was identified as civil legal need where federal funding is available, however, there does not appear to be service providers to assist. A suggestion is for a representative from ATG's to convene a working group to see if improvements to the expungement process and laws can be made to simplify the process and remove unnecessary obstacles. The JFA committee should consider supporting the working group and encouraging community assistance for expungement.

Lastly, there is no shortage of attorneys within the executive departments. Many attend continuing education trainings or workshops through the Hawaii State Bar Association. It may be worthwhile to develop a continuing education course targeted specifically at the attorneys within the executive departments to continue the momentum of the JFA projects.

V. Conclusion

¹⁰ American of University, Justice in Government Program, <https://www.american.edu/spa/jpo/toolkit/index.cfm>

The Department of Human Services continues to be interested in increasing access to civil legal services to Hawaii residents to support residents' ability to thrive. However, access to civil legal services by Hawaii's residents requires additional investment by the Legislature. Supporting collaboration, implementation of existing plans, and strategies to use available federal funds requires administrative infrastructure.

While the continuation plan for the Roundtable is still in progress, any immediate questions regarding the Roundtable process or members should be directed to Cathy Betts, DHS Deputy Director, cbetts@dhs.hawaii.gov. Any questions on federal funding sources or implementation should be directed to Karen Lash, klash@american.edu