

APPENDIX E: UJS Court Clerk Survey Report

Background

During the course of the legal needs assessment, the evaluator interviewed several court administrators, clerks of courts, and court clerks while completing community interviews. The court staff provided invaluable feedback based on their observations. The evaluator requested permission from Greg Sattizahn, UJS, to send a survey to the clerk of courts to inform what priority cases A2J, DPLS, and ERLS will focus on. The survey was opened in January 2023 and closed in February 2023. Twenty-eight (28) clerks responded to the survey.

Results

Legal Aid Priorities. In the community interviews, the court staff suggested legal aid priorities should focus on cases that do not have pro se forms including but not limited to child custody, guardianship, and probate.

The survey results were similar to the interview findings which suggested legal aid priorities should be focused on family law and cases involving children. Mental health ranked higher in the survey than in the interview findings. Figure 1 summarizes the top thirteen (13) ranked case types. Table 2 lists all cases that were noted in the survey results with the corresponding number of respondents.

FIGURE 1: Suggested Legal Aid Priorities

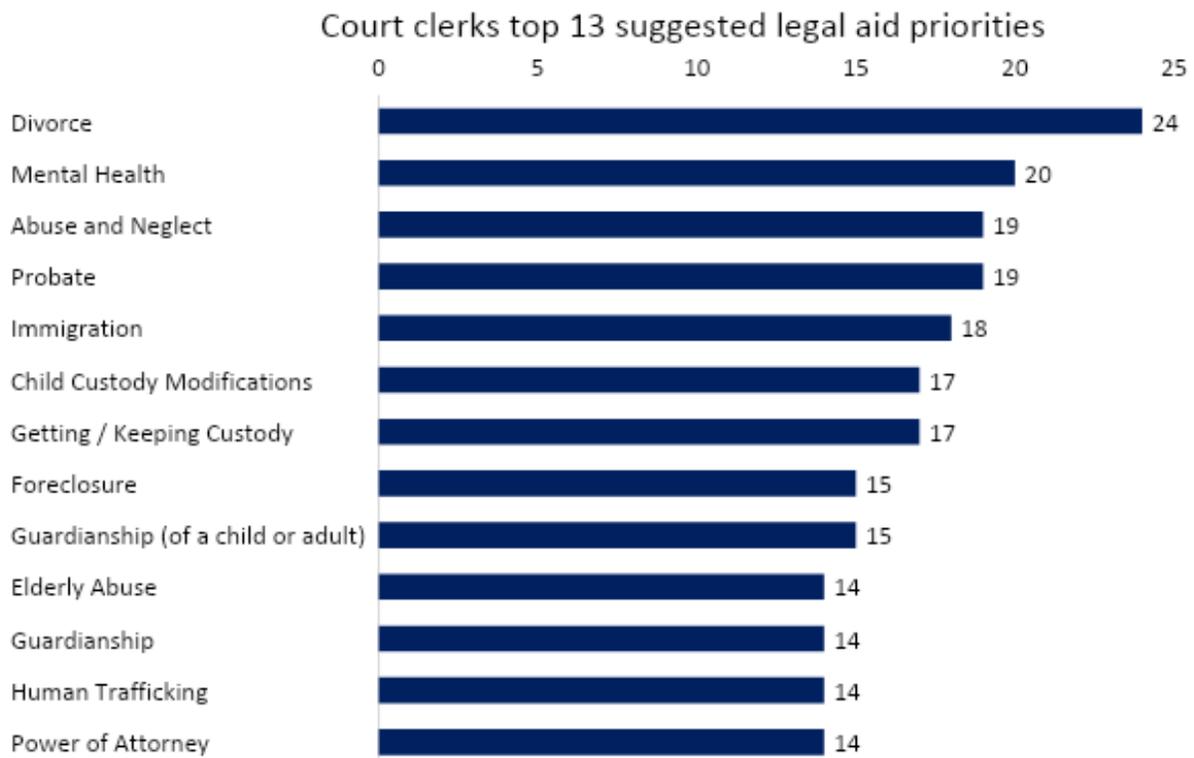


TABLE 1: Legal Aid Priority Suggestions

Divorce	24	Mental Health	20	Probate	19
Abuse and Neglect	19	Child Custody Modifications	17	Getting/Keeping Custody	17
Foreclosure	15	Guardianship (Children and Adults)	15	Elderly Abuse	14
Human Trafficking	14	Power of Attorney	14	Debt Collection	13
Landlord/Tenant	13	Domestic Abuse	12	Health Care Access	12
Wills	12	Access to Housing	11	Benefits	11
Child Support	11	Criminal Record Expungement	11	Identify Theft	11
Living Wills	11	Protection Orders	11	Truancy/Delinquency	11
Bankruptcy	10	Nursing Homes	10	Enforcement of Native American/Tribal Law	9
Health Insurance	9	Visitation	9	Wages	9
Women, Infants, Children (WIC)	9	Sexual Harassment	8	Student Loan Debt	8
Contracts	7	Discipline/Expulsion	7	Discrimination	7
Financial Aid	7	Rental Repairs	7	Special Education	7
Children's Health	6	Disability Rights	6	Emancipation	6
School Issues due to Discrimination	5	Individual Education Program (IEP)	5	In-Home Medical Services	5
Employment	5	Medicare	5	Taxes	5
Tribal Court Cases	5	Expungement	4	Loan Modification	4
Preventing Termination of Parental Rights	4	Truancy	4	Adoption	3
Disability Rights	3	Medicaid	3	Private Insurance	3
Retaliation	3	Social Security	3	SSI/SSDI – Disability	3
Unemployment	3	Enrollment	3	Native American/Tribal Law Studies	2
Real Estate	2	Food Stamps/TANF	1	Insurance	1

Client Barriers. The survey listed barriers that prospective clients may encounter when trying to access legal aid services. The clerks were asked to check all barriers that apply based on their observations. The top priority, struggling to understand the legal process, correlated to the community interview findings.

TABLE 2: Client Barriers

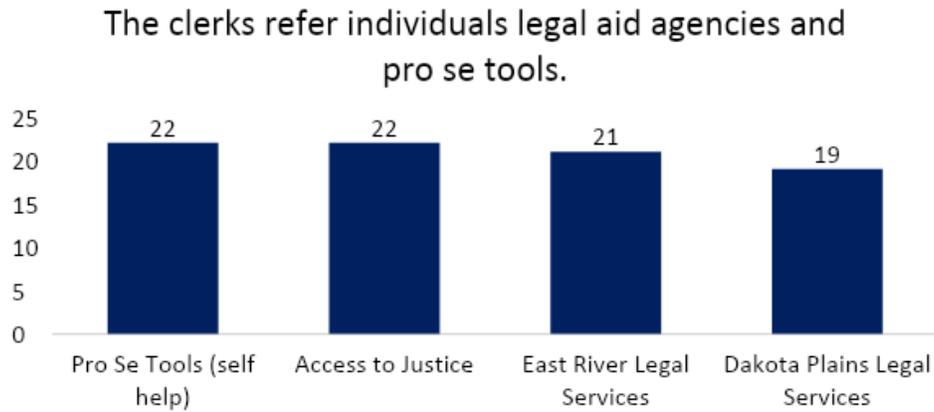
# of responses	Barriers to receiving legal aid
22	They struggle with understanding the legal process for their particular issues.
17	The nearest legal aid office was too far away.
16	They do not have a computer.
16	They did not know there was legal aid.
13	They did not understand what legal aid services were available.
13	Legal aid could not take the case because it was not an eligible case type.
11	They do not know how to fill out the legal aid application form on the computer.
10	Their mental health or physical disability prevented them from utilizing legal aid services.
10	Legal aid could not take the case because they were over the income or asset guidelines.
9	Legal aid could not take the case because it was out of their service area.
9	Legal aid could not take the case due to time/resources.
8	They could not drive to the legal aid office because they did not have a car or a car that works.
7	They were nervous to call legal aid.
5	It was too difficult to call or visit A2J, DPLS, or ERLS during the hours their office is open.
4	They struggle with communicating in English, especially about their legal issues.
3	There was a conflict of interest.
2	They do not have a telephone or cell phone to call legal aid.

Comments:

- Most commonly we hear "they won't help me" but we never know why. Maybe they don't qualify? Maybe they didn't try or do what they needed to do?
- We often end up with parties that Dakota Plains cannot help because they are already assisting one party in the case.
- We are often told that they contacted legal aid and were told they are not taking any new cases.
- They (prospective client) wanted something done right now and didn't want to go through the application process.

Legal Aid Referrals. Most clerks refer legal aid services to clients who cannot afford a private attorney.

FIGURE 2: Legal Aid Referrals



Suggestions for Improvement. The clerks were asked to check a list of options that legal aid agencies should do to improve the delivery of free legal services in South Dakota. Table 3 summarizes the responses.

TABLE 3: Suggestions

# of responses	Suggestions to improve the delivery of legal aid
19	Hire more legal aid attorneys
14	Expand client eligibility
12	More private attorneys providing pro bono services
12	Market their services
11	Educate prospective clients
5	Expand organizational capacity
5	Educate private attorneys
2	Fundraise

Comments:

- Provide outreach services.
- Many states require attorneys to do pro bono work and South Dakota does not, I think it would be beneficial to the Courts if they were required to do some pro bono work.
- More offices in more counties.
- I do know that DPLS does the best it can with what is available. I always encourage the individual to at least contact the office for advice/options.

What advice do you have for Access to Justice, Dakota Plains Legal Services, and East River Legal Services?

- Hire more attorneys.
- Provide outreach services again.
- To help anyone with legal questions.
- It may not be feasible to have offices in more counties but possibly coming to larger counties at a set time each month might be helpful. Offer assistance to prose people even if you aren't taking the whole file. Maybe they want to do their own divorce but just have a few questions about forms. Sometimes they feel stuck in between just because of one confusing piece. Helping with probates, especially a small estate. Small estates would be fairly simple.
- To actually go out and visit with the Clerk of Court's Office and staff so that we all have a better understanding of what each office handles.
- Maybe a requirement for a law license should be so many hours of pro bono services per year. There are so many underserved people, some smaller areas have no access to legal aid at all and attorneys don't want to serve in these areas because there's no money in it.
- We need to know how the process to get legal aid works better so we can point clients to it.
- I have referred a number of people to the programs with the business cards available in my office. I have not ever heard how their visit went as far as if the programs were able to help them.

Pro Se Forms. During the course of the community interviews, several interviewees noted that pro se forms either helped the court process or were frustrating to complete.

What suggestions do you have to improve the pro se forms in general or any specific form?

- **Instructions**
 - Guide and Serve should be expanded beyond just the initiation of a case file. I think the general public does better with computerized yes/no question-and-answer type of forms. I think it is less confusing and the resulting documents are more accurate and complete than paper forms.
 - Some forms have instructions that are very good, while some forms have no instructions at all. Keep them uniform.
 - Basic simple instructions. Most forms and instructions on many forms are very cumbersome and hard to understand for non-English speaking individuals.
 - For the most part I think the pro se forms are working well. Instructions for each form seem very simple to follow if people just take their time and don't try to complete, say a whole divorce packet in an hour. In my area I actually have very few people who use the guide and file system - 98 percent use the written forms.
 - Make sure that the forms and instructions can be understood by the common person.
 - It would be more beneficial to have checklists of what needs to be done for the people who choose to be Pro Se. I have a lot of people come in thinking they can file their documents, but they are usually missing key documents.
 - More specific instructions for forms, and the steps in the legal process provided.

- **Clinics**
 - Personally, I am not a fan of all the pro se forms. Individuals using the pro se forms are not willing to actually take the time to read them thoroughly and follow the directions. They just vaguely fill them out and then present them to the clerk for filing. It is not uncommon for a pro se individual to present the entire divorce packet to the clerk expecting the clerk to go through all the forms for them and tell them exactly which ones they need and what to fill out. If there was some way for the system to hold a clinic of some type and then with attendance the forms would be provided free of charge.
- **Individuals' capacity to fill out forms**
 - Some of our clients cannot read, hence fill out a form and try very hard to hide that fact. Or they may have limited capabilities to 1) understand the terminology; 2) put the information in the correct area; or 3) ask for something when a different form would better suffix.
 - Anything Pro Se is a nightmare for the clerk of courts. Parties all think that clerks are going to fill out the forms not them. They throw all the forms on the counter at one time and ask now what do we need to do??
 - The forms are complicated for people who are not familiar with the law and many of them need assistance to complete them (which we are not allowed to do).
- **Public awareness**
 - Get the website out to the public. Most people are unaware of what is available to them. Run a continuing small ad in every SD newspaper and hit the social media platforms with our website (Legal Forms Available), maybe billboards.

If you have any other feedback, please write it in the box below.

- Thanks for all you do!
- Your work is appreciated!
- There are so many who don't have the means to pay for an attorney but make too much for legal services. They live paycheck to paycheck and beyond.....
- The main consumers of SD rural legal needs are of low socio-economic status and have low education attainment. Access to attorneys is extremely important.
- Most parties don't have a computer or printer to do the forms and get them to the clerks to file. Wish there was a program for all libraries to have a computer and printer so they could have access to the forms and be able to print them off.
- Know that as Clerks what we say- they can assist with the terminology as "legal speak" can be a foreign language- am I a plaintiff or respondent/defendant? and what they say they heard when they contact you are not the same. They may want you to help them fill out the form. We do not ever say that.
- Clerk of Courts staff are way overworked.