

## APPENDIX F: Community Interview Findings

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### Background

The evaluator traveled to 21 communities across the state to conduct interviews. Interviews were conducted with the following groups of constituents to better understand the legal needs in their community:

- Tribal and UJS court judges, court clerks, administrators, and other relevant court staff/officials
- Child Protection Services (CPS) and Indian Child Welfare Act (ICWA) representatives
- County Human Services Department representatives
- Domestic violence shelters
- County and Tribal veteran's offices
- Non-profits serving target audiences (veterans, low-income, disabled)

The purpose of this appendix is to summarize the interviews in each community.

**Aberdeen.** Aberdeen is South Dakota's third-largest community with a population of 28,495. Aberdeen is the home of two universities, Northern State University and Presentation College, with 3,600 and 800 students respectively. The region's workforce supports agricultural, manufacturing, and technology industries. Based on the agency interviews and the prospective client surveys, the top legal aid needs are:

- Family law (all cases)
- SSI/SSDI
- Youth truancy
- Debt collections
- Employment (sent to Sioux Falls)
- Landlord/tenant
- Medicaid
- Driver's license
- Immigration (sent to Sioux Falls)

The economic development in the Aberdeen region has drawn an immigrant workforce. This has led to two legal needs: immigration and employment law. Employment issues are especially exaggerated when employees get hurt at work. There is typically a language gap and a lack of translation services in the region. The closest immigration attorneys are in Sioux Falls which is 220 miles from Aberdeen. Many employment law cases are also referred to Sioux Falls.

UJS 5<sup>th</sup> Circuit Court and Brown County Court reported the court schedules are booked months out. In a focus group with local private attorneys, they observed that family law cases with children may take a long time to complete and their high caseload prevents them from taking on new cases. As a result, approximately 80% of pro se cases in this region are family law including divorce, visitation, and protection orders. According to the court clerks, the parties have a difficult time understanding the details. The court staff cannot help people fill out the pro se forms leaving individuals on their own as most cannot afford an attorney.

Domestic violence victims are particularly vulnerable. Typically, the non-abusive parties are financially dependent on their spouse. The abusers will try to withhold and control the children at all costs. Sometimes a victim will initially choose the abuser over the children because they are fearful of losing everything. If they cannot afford an attorney and cannot secure legal aid, their choice is to fill out pro se

forms or do nothing. The legal process is overwhelming even with an attorney. They are anxious and scared.

In Brown County alone, there are 1,750 veterans. Veterans' legal issues include wills, trusts, power of attorney, and medical / nursing home advocacy.

**Brookings.** Brookings (population 23,641) is located on the I-29 corridor north of Sioux Falls and is the home of the largest university in the state, South Dakota State University (student population 11,400). The presence of the university increases the diversity of the overall population due to students and employees. Community agencies stated individuals were experiencing extreme poverty. Based on the agency interviews and the prospective client surveys, the top legal aid needs are:

- Child Custody
- Housing
- SSI / SSDI
- Youth Truancy / Delinquency
- Guardianship
- Immigration
- Visitation
- Domestic violence

Housing is an issue across South Dakota. However, due to the fluctuating student population of the university, housing for Brookings's citizens is more limited. The respondents told the evaluator about individuals living in abandoned trailers and homes and living in unhealthy and even dangerous situations. Additionally, the agencies mentioned the unintended consequences of housing rules.

“In ‘crime-free zones’ the landlord will throw out the victim along with the abuser especially if police are called. Therefore, victims are reluctant to contact the police.”

Kinship guardianship was named a priority by four of the five agencies as a legal aid priority case. Without legal guardianship, the relative has limited scope over medical, education, and other decisions for the children they are responsible for caring for.

“If a family member (grandparents, siblings, aunts/uncles) need to secure guardianship as they are taking care of their family member's children, they are expected to pay for their own attorney. This puts the family member in a difficult situation as they need to admit/report that the parent (their daughter/son, sister/brother) has abused the child.”

State and non-profit agencies also raised the concern of helping parents and guardians with juveniles with behavioral issues. Currently, caregivers and these agencies do not know whom to turn to.

“Children with severe behavioral issues don't come under abuse and neglect. Parents do not know what to do. They don't want to give up parental rights but cannot handle the child anymore. They need help but are not sure where to go. We see quite a bit of this.”

**Cheyenne River Sioux Tribe.** The Cheyenne River Sioux Tribe sovereign nation is in central South Dakota in Dewey and Ziebach Counties as well as parts of Haakon, Meade, and Stanley Counties. The local population is approximately 12,000. In Dewey County, one in four households lives in poverty and in Ziebach County nearly half of the households are in poverty. Based on the agency interviews and the prospective client surveys, the top legal aid needs are:

### Top Legal Needs | Agency Interviews

- Domestic Abuse
- Child Abuse and Neglect
- Elder abuse
- Guardianship (children and adults)
- Divorce
- Child Custody
- Access to Housing
- Medicaid

### Top Legal Needs | Prospective Client Surveys

- Food Stamps/TANF
- Medicaid
- Access to Housing
- Native American/Tribal Law
- Domestic Abuse
- Mental Health
- Child Custody
- Guardianship (children and adults)

The themes of community interviews were providing legal aid to children, elders, and domestic violence victims and navigating social service systems.

Multiple interviewees advocated for a Guardian ad Litem program in South Dakota. One of the interviewees was a Guardian ad Litem in a former role.

“I was a liaison between parents. I spoke for the child and let them know that I represented their best interest. I worked alone with each child and each parent. I was a neutral advocate. I was trained through ICWA. This provided a lot of comfort for the children.”

Interviewees also advocated for mediation, especially in divorce and children’s cases. The Tribal Courts are backed up due to COVID, multiple cases, and employee turnover. They have a contracted prosecutor and public defender. Interviews noted civil and criminal root causes include but are not limited to methamphetamine, alcohol, and poverty.

“There are few jobs available.”

The elderly population was suggested as a priority target population for legal aid cases, especially guardianship and elder abuse. Interviewees observed,

“The family should not always be the guardian. Guardians are needed that will have the best interest of the senior citizen and not offend the family.”

Elder abuse, particularly financial abuse, was observed when the American Recovery and Protection Act (ARPA) funds were released.

“We observe many instances of elder abuse (financial and physical). They need a voice at the end of their life. Elders are taken out of the nursing home and found wandering the streets afterward.”

Finally, the interviewees and the prospective client surveys stated that individuals need assistance navigating social service systems. High priorities include food stamps/TANF, Medicaid, and housing assistance.

**Crow Creek Sioux Tribe.** The Crow Creek Sioux Tribe sovereign nation is in central South Dakota in parts of Buffalo, Hughes, and Hyde counties on the east bank of the Missouri River. The local population is approximately 1,200. One in three households in Buffalo County lives in poverty and one in three individuals is under the age of 18. Based on the agency interviews and the prospective client surveys, the top legal aid needs are:

**Top Legal Needs | Agency Interviews**

- Abuse and Neglect
- Child Custody
- Tribal Court - Criminal Cases
- Guardianship (children and adults)
- Domestic Violence
- Human Trafficking
- Housing
- Probates

**Top Legal Needs | Prospective Client Surveys**

- Tribal Court
- Food Stamps/TANF
- Medicaid
- Guardianship
- Child Custody
- Access to Housing
- Mental Health
- Domestic Abuse

The evaluator interviewed 35 individuals during a community intercept survey at the local grocery store and casino. All of the individuals were Native American and lived in or near Fort Thompson. One-half of the individuals indicated their top legal concern was cases involving children. Most of the prospective clients noted the most urgent need was cases of placement for children not in the system. The Tribal Court and ICWA representatives confirmed these cases as the top priority as well. ICWA tries to find relatives where children can stay as it is scary for the children to stay in a group home. The Tribal judges and prosecutor indicated each party (child, mother, father, guardian) should be represented by an attorney.

“The child is not always represented in abuse and neglect cases. They have a hard time verbalizing what is happening, or they do not want to do anything that compromises their family situation.”

“We very rarely see children that are represented by an attorney or Guardian ad Litem.”

“Families do not know where to begin. They look for guidance. They need advice on where to get started. ‘What should I do?’”

The community members that participated in interviews also noted they needed help navigating social service systems, especially food stamps/TANF, Medicaid, and housing. Filling out the paperwork is difficult without assistance. If they are denied, they are not sure whom to turn to.

The local domestic violence shelter serves not only the Crow Creek Tribal community but Lower Brule as well. Their staff is trained to navigate the tribal court system with their clients. They noted that if the domestic violence victim cannot get an attorney, they will go back to the relationship or do nothing resulting in potentially risking their lives and losing their children and possessions.

Crow Creek has no public defender on staff or contract. As a result, individuals typically represent themselves unless they can find and afford an attorney. The criminal cases may have dual tribal and federal jurisdictions.

“By the time the defendant has reached the federal level with no attorney, the damage is already done.”

The evaluator did speak to individuals in the community interviews that did receive legal services from DPLS. They were grateful for the help and observed their attorneys were able to navigate them through a very difficult situation so they could continue to support and care for their families.

**Flandreau Santee Sioux Tribe.** The Flandreau Santee Sioux Tribe sovereign nation is in eastern South Dakota in Moody County. The local population is approximately 720. Agriculture, tourism and entertainment, and land development are the primary economic drivers. Based on the agency interviews and the prospective client surveys, the top legal aid needs are:

- Child Custody
- Divorce
- Abuse and Neglect
- Involuntary Commitment
- Access to Housing
- Immigration
- Tribal criminal cases
- Guardianship
- Domestic Abuse
- Elder Abuse
- Protection Orders
- Employment Discrimination
- Human Trafficking
- Veterans Benefits

DPLS serves as the public defender for Flandreau Santee Sioux Tribal Court as they do not have a public defender on staff. The tribal court has a limited budget; however, they have successfully secured grants to secure a Guardian ad Litem and deputy clerk.

The community interviewees requested more civil legal aid services for those who cannot afford a private attorney. The most pressing civil legal needs are family law, individual rights, immigration, and benefits.

“People are completely on their own for civil cases.”

“Navigation is key; people do not know how to navigate the legal and social service systems.”

Immigrants that work in neighboring communities in agricultural industries turn to services in the Flandreau area. If an immigrant is abused, the abuser sabotages their efforts to get immigration status or other needed services. The nonprofits that serve this population struggle with advocating for their clients in the legal system. Securing an attorney is difficult, if not impossible, and translation in the legal system is problematic.

Veterans in the area can work through their Veterans Service Office; however, they may need an attorney if benefits are denied. Additionally, veterans and their families have additional needs including but not limited to access to housing, wills, and probates.

**Huron.** Huron, population 14,263, is home to the South Dakota State Fair held annually for five days. Huron welcomed immigrant workers to fill workforce requirements at Dakota Provisions, a turkey processing plant, and Jack Links, a meat processing facility. Asian and Latino immigrants filled jobs that the regional population was not able to fill. As of December 7, 2022, less than 700 individuals are receiving unemployment checks in the entire state of South Dakota. At the time this report was written, there are over 44,237 job openings in South Dakota (Source: SD Department of Labor).

The legal aid needs reported by the interviewees were child custody, divorce, domestic abuse, protection orders, elder abuse, immigration, and debt collection.

With the significant growth of racial diversity in the community, the evaluator asked if there was a need for translation. The States Attorney's Office reported the county courthouse had secured reliable and accessible Spanish and Karen translators. They were available to travel to the courthouse and work with the victim's advocate and other staff. Although translation services are available in the court setting, local non-profits found it difficult to find a translator. Oftentimes, the children translate for their parents. Approximately one-third of the litigants are Hispanic and Karen.

Immigration cases are referred to South Dakota Voices for Peace in Sioux Falls. The Huron community is able to apply for funding through the Wings (Women in Network Growing Stronger) Foundation. This account, which is held at the South Dakota Community Foundation, was created with the YMCA closed and liquidated. South Dakota Voices for Peace was able to help children in the region that do not have parents in the U.S. as well as adults.

As indicated above, family law cases were the highest legal aid need. The interviewees believed that the abuse, both domestic and elder abuse, was underreported due to the family's cultural beliefs or that the victim does not feel they have any other option but to stay.

"If the victim does not have an attorney but the abuser does, it is very intimidating to meet with the judge."

"Elders who are abused do not want to 'rock the boat.' They have nowhere to go and fear if they report, they will be homeless."

Divorce and child custody are the most frequent legal cases that individuals could not afford or secure an attorney.

"The abuser uses the kids against the victim to control them."

"If the victim does not have an attorney but the abuser does, it is very intimidating to meet with the judge."

The Veteran's Officer said he was not aware of any legal issues that veterans face that are not already addressed by local private attorneys.

**Lower Brule Sioux Tribe.** The Lower Brule Sioux Tribe sovereign nation is in central South Dakota in parts of Lyman and Stanley counties on the west bank of the Missouri River. The Lower Brule community population is approximately 700. One of four households in Lyman County lives in poverty. Major

employers are the Lower Brule Sioux Tribe, the Golden Buffalo Casino, the Bureau of Indian Affairs, and Indian Health Services. Based on the agency interviews and the prospective client surveys, the top legal aid needs are:

**Top Legal Needs | Agency Interviews**

- Abuse and Neglect
- Juvenile Delinquency
- Tribal Court - Criminal Defense
- Domestic Abuse
- Protection Orders
- Mental Health
- Wills/Probate

**Top Legal Needs | Prospective Client Surveys**

- Domestic Abuse
- Food Stamps/TANF
- Medicaid/Health Insurance
- Landlord/Tenant
- Guardianship (children and adults)
- Mental Health
- Tribal Court – Criminal Defense

The Lower Brule Tribal Court has a philosophy of restoration and reconciliation which embodies the values of the tribe. Representatives explained to the evaluator that because they work in a sovereign nation, they implemented innovative programs in tribal court. For example, they had a behavioral health counselor working within the jail. They had received grant funding for a reentry system that includes a substance use disorder evaluation, behavioral evaluation, and classes. They have had individuals graduate from Drug Court.

“They had to speak to the court, their families, and leaders. It was very moving. Jail should not be a punishment for substance use disorder. They should receive healing and treatment. We would like to do more innovative programs including grief support, behavioral health, broader substance use disorder, and women’s devotional groups.”

In addition to a prosecutor, Lower Brule has also contracted a public defender (from Pierre) to take on court-appointed cases. He often has a conflict of interest. In those cases, they refer to DPLS and it usually works out. If DPLS has a conflict of interest, there are not many options.

One of the top identified priorities was child abuse and neglect cases. It is especially difficult when the child has a behavioral health or physical disability. In child abuse and neglect cases, it would be ideal if the parents were also represented so an attorney could explain the process and encourage them to stay on track. In the best scenario, all parties would be represented: mother, father, child(en), and guardians (usually a relative). Currently, this is not happening.

Interview respondents expressed a need for Guardian ad Litem for children, so their voices are heard. A Guardian ad Litem program would be much better, especially if it were an experienced attorney. This program may result in a positive return on investment as one attorney could follow several children. Sometimes children should be placed outside the home. In those cases, the prosecutor and DSS CPS need more help. Having a Guardian ad Litem would be that extra voice in court representing the child.

“The Guardian Ad Litem would be in the best interest of the child. I cannot represent the child and the tribe.”

In rural communities, there are very few public defenders, and those that do practice in tribal communities often have a conflict of interest. The representatives suggested having A2J or DPLS step in with another attorney.

**Martin/Bennett County.** Martin, population 938, is the county seat of Bennett County. Bennett County has 3,381 individuals. One out of three people in Bennett County is under the age of 18. One out of four households is in poverty. Bennett County lies between the Pine Ridge Reservation to the west and Rosebud Reservation to the east. Based on the interviews, the top legal aid needs are:

- Abuse and neglect
- Guardianship (children and adults)
- Probate
- Child Custody (Kinship)
- Divorce
- Housing

The top priority for Bennett County is legal aid or private attorneys who can take cases that involve children. Currently, there is a severe shortage of representation for all parties (children, parents, guardians).

An issue that takes up court system resources is pro se probate cases. The relatives cannot afford an attorney. Some just give up as the cost of an attorney is more than the inheritance.

Housing issues are another priority case for legal aid. Renters do not know their rights.

“All of their belongings are thrown out and they have nowhere to live. They don’t realize the landlord does not have the right to just evict without proper notice. Both sides have a hardship.”

Finally, the interviewees noted it was very difficult to recruit attorneys in this area of the state due to a lack of housing and low pay. There was one attorney recruited through the Rural Attorney Program; however, they had to leave as their child needed resources that Martin could not provide.

**Mitchell.** Mitchell, population 15,660, is the home to Mitchell Technical College (MTC) and Dakota Wesleyan University (DWU). MTC and DWU enroll approximately 1,300 and 770 students respectively. Regionally, the primary industries are agriculture, healthcare, manufacturing, and retail. Mitchell is also the county seat for Davison County.

Divorce, child custody, wills, and landlord/tenant cases were reported as the top priority legal aid cases for the region. Other family law cases that were identified were adult guardianship and domestic abuse.

“We need to help them whether they can afford an attorney or not.”

Hiring a divorce attorney is often prohibitive for one or both parties. When one party has money and can afford an attorney and the other party does not, it tips the scales. Child custody cases are difficult for

everyone. At times, parents will use protection orders as tools for the other parent not to see the children as a temporary solution for custody.

Interviewees inquired if legal aid organizations or law school students could assist litigants in completing pro se forms. Many individuals struggle to fill out the pro se forms. Once they attend the hearing, several do not understand the court processes, what documentation to bring, and how to argue their case. Legal aid attorneys may be able to prepare individuals.

Veterans' legal needs included wills, benefits, power of attorney, and trusts. Many times, families are not prepared if the veteran passes away unexpectedly. Recently, the County Veterans' Office held a benefits fair. Local attorneys volunteered to meet with veterans regarding wills. The attorneys and Veterans' Office was overwhelmed by the response and need in the region.

Adult guardianship is difficult to navigate as there are not enough facility beds in the region to send eligible individuals.

Agencies that advocate for their clients requested that legal aid organizations partner with them to train them to better help prospective clients and coach them to cooperate with their legal aid appointments.

A growing need in Mitchell, as well as other rural South Dakota communities, is reliable and affordable language translation services. The courts rely on telephonic interpreters. This is hard on the individual and the clerk as they have to work through the window. Most courthouses do not have the room or capacity to work with individuals outside this infrastructure. In-person interpreters may not understand the court processes and terminology. A majority of the time, children – often young children – are interpreters for their parents. In summary, rural courthouses are not equipped to serve individuals who do not speak English.

**Oglala Sioux Tribe.** The Oglala Lakota Sioux Tribe is in southwestern South Dakota and includes all of Oglala Lakota County and adjacent counties including Bennett and Jackson. The local population is approximately 20,000. One in three households lives in poverty. One in three individuals in Oglala Lakota County is under the age of 18. Oglala Lakota College enrolls approximately 1,500 full-time and part-time students per year. Based on the agency interviews and the prospective client surveys, the top legal aid needs are listed in approximate order of the number of responses below:

**Top Legal Needs | Agency Interviews**

- Child Custody
- Divorce
- Guardianship (children and adults)
- Immigration
- Landlord/Tenant
- SSI/SSDI

**Top Legal Needs | Prospective Client Surveys**

- Access to Housing
- SSI/SSDI
- Food Stamps/TANF
- Medicaid
- Juvenile Truancy/Delinquency
- Debt collection

- Human Trafficking
- Disability Rights
- Tribal Law – criminal cases
- Tribal Law

The primary legal issues identified by prospective clients involved basic needs such as housing, food, medical needs, and financial resources. Many legal issues such as SSI/SSDI are not handled by local attorneys. Instead, the closest attorneys who deal with legal areas in specialty areas are in Rapid City, approximately a two-hour drive from Pine Ridge.

The tribal court identified the top priority for legal aid as children that are in the care of the foster system or kinship care.

“There are kids that are in life-threatening situations. Typically, one parent has an attorney and the other does not which tips the scale.”

The second priority was Involuntary Commitment due to mental illness or substance use disorder.

“Families don’t know what to do in this situation. In the past, there were 200 cases per year and now there are over 600 cases per year. The root cause is meth and fentanyl.”

The third priority was criminal cases in tribal courts. They believed they could keep a full-time criminal attorney busy.

“We had a backlog from 2020 in Pine Ridge and 2019 from Kyle. Some individuals were able to bond out. However, many individuals cannot make bond and they never get an attorney. If you do have an experienced attorney, they can negotiate a plea and help them work through the system...at least explain the process.”

Many of the veterans in the surrounding region are elderly and disabled. Some have behavioral health issues including Post-Traumatic Stress Disorder (PTSD). The community partners observed that veterans live with a negative stigma and have had barriers to receiving services. However, the tribal legal advocates have been very helpful to the local veterans. Veterans need assistance with disability rights, mental health, housing, and family law issues.

**Pierre.** Pierre is located in central South Dakota and is the home of the state capital and government agencies. Pierre’s population is 14,091. Nearly one out of ten households lives in poverty and one out of four individuals is under the age of 18. Based on the interviews, the top legal aid needs are:

- Discharge and Transfer (elderly, disabled)
- Elder abuse
- Child Abuse and Neglect
- Medicaid
- Guardianship (children and adults)
- Child Custody
- Divorce
- Domestic Abuse

- Driver’s License
- Immigration
- Landlord/Tenant
- Mental Health

The top legal aid priority identified by the Department of Human Service (DHS) Long Term Care Ombudsman Program was the discharge and transfer of elderly citizens transferring out of nursing homes. The residents receive a 30-day written notice to move out of the nursing home facility. The resident can request a fair hearing. However, the facility has an attorney at the hearing and the residents typically represent themselves. If DHS is notified, an ombudsman will attend the meeting with the resident. The resident may be confused and may not have the cognitive ability to understand what is happening at the hearing. The judge usually makes an appropriate decision. Nevertheless, an attorney would ensure the resident’s rights are protected.

Families in crisis including domestic abuse and child abuse and neglect was another priority identified for legal aid. An interviewee representing a non-profit explained it has been difficult to find attorneys for their clients due to the shortage of attorneys accepting family cases and the lack of legal aid attorneys.

“When people are in crisis, it is hard not to be able to help.”

Interviewees also identified the need to navigate Medicaid, mental health, and identification paperwork as areas that prevent individuals from gaining much-needed services, jobs, and resources so they can live independently.

Individuals living in poverty and then entering the criminal justice system have a difficult time getting back on their feet.

“People do not even have \$500 for emergencies. Therefore, they do not have \$500 for bond so, they are stuck in the Hughes County Jail. If they get a loan for the bond, there are typically strings attached, and are forced to go back to their chaotic lives. They are in a vortex and they cannot get out of it. The underlying problem is poverty. Women who are in jail and cannot pay the bond may lose their children to foster care. If they do get a loan, the people who give her the money get it out of her three-fold. There is no support for these folks. Bad people take advantage of and collect vulnerable people and children. They pick up these victims. The victims are beholden to people who do not have the same ethics or morals. They collect their disability insurance and social security and strip them of their wealth. People need to get away from their family and ‘friends’ to get out of poverty, alcohol, and drugs. They need to get away from bad influences.”

**Rapid City:** Rapid City is the second largest city in South Dakota with a population of 70,812. Over the few years, Rapid City has increased its physical and systemic infrastructure to support low-income, justice-involved, and victims of violence. Notably, Pennington County’s Care Campus and the neighboring One Heart residential campus are across the street from county/city law enforcement and the court system. The community is developing an innovative model, Systems of Care, to better serve targeted audiences. The Care Campus, One Heart, and many other agencies provide multiple services to individuals from a large geographical catchment area in Western South Dakota.

DPLS has an office in Rapid City and provides civil law representation and has a contract with Pennington County to complete overflow Class 3 and lower criminal cases from the Public Defender’s office. A2J has also referred cases to local private attorneys in the region. Respondents noted they appreciated the USD WORKS program when they work in the Black Hills region.

Eight agencies participated in the legal needs assessment community interviews. Based on the agency interviews and the prospective client surveys, the top legal aid needs are listed below:

**Top Legal Needs | Agency Interviews**

- Child Custody
- Divorce
- Guardianship (children and adults)
- Immigration
- Landlord/Tenant

**Top Legal Needs | Prospective Client Surveys**

- Access to Housing
- Disability Rights
- Food Stamps/TANF
- Medicaid
- SSI/SSDI

Respondents and the UJS court system suggested divorce cases and resulting child custody cases should be a high priority for legal aid.

"Divorce is the leading cause of situational poverty."

"The biggest mess for the court system is pro se divorces with children."

Other legal aid priorities that were noted by the respondents included driver's licenses, birth certificates, abuse and neglect, child support, protection orders, visitation, elder abuse, mental health, criminal expungement, human trafficking, wills, and debt collection.

Similar to responses to Brookings and Pierre, the agencies said that some individuals begin their journey with the legal system with a traffic stop as illustrated by the example below.

"An individual drives to Rapid City from Pine Ridge to run errands. While in Rapid City, they are stopped by the police department and issued a ticket. They drive home the same day and forget or do not choose to pay for the ticket. Three years later, they are back in Rapid City, and they are stopped again. The police officer runs their license and sees they have a warrant. The situation snowballs resulting in their car being impounded, possible arrest, and possible driver's license taken away. Now they cannot take their kids to school or go to work. They are stuck in this community until they can get their car back."

Similar to rescinding a driver's license, the lack of identification inhibits individuals from receiving benefits, applying for the military or employment, or getting an education.

"Kids cannot apply for an ID if they do not have a birth certificate. The parents are so disorganized that they don't have it any longer. Or the kids do not know who the parents are or where they live. They end up in a cycle that is difficult to get out of."

Finding affordable housing is a problem in Rapid City due to the expansion of Ellsworth Air Force Base, higher education students from Western Dakota Technical College and South Dakota Mines, and an increased general population in Rapid City. Therefore, access to housing and landlord/tenant cases were marked as a priority for legal aid.

"There is a lack of access to affordable housing. Landlords have a stereotype of tenants that hold Section 8 vouchers. They believe they will trash their apartments and be bad tenants. There are not a lot of options for Section 8 housing in this area. There are few options for affordable housing,

especially if you have a poor credit history. At our agency, we coach individuals on how to be good tenants.”

Respondents observed the barriers to legal services are a lack of legal aid attorneys, mental health prohibiting advocating themselves, and a lack of computers and cell phones to complete applications. One respondent observed:

“People have the right to access justice but are not getting the help they need.”

A barrier for domestic violence victims is hesitancy to compromise their and their children’s safety. An example provided by a case worker is noted below.

“A domestic violence survivor doesn’t want to file a protection order because she doesn’t want her husband to know where she is. She cannot file for state support until she files for child support. However, if she does that, he will know where she and the kids are.”

The court clerks noted the pro se forms are overwhelming for the individuals but also for the clerks. The clerks cannot provide legal advice or help individuals fill out forms. From the court’s point of view, it is so much better for all parties when an attorney is involved in a case. It is hard for judges to help when the litigants are not prepared or do not know what they are doing.

“People want the quickest way out even if it means significant consequences.”

**Rosebud Sioux Tribe.** The Rosebud Sioux Tribe is located in south central South Dakota and includes all of Todd County and adjacent counties including Gregory, Lyman, Mellette, and Tripp. The population is approximately 12,000. The Rosebud Sioux Tribe, Bureau of Indian Affairs, Todd County School District, and Rosebud Casino are major employers. Sinte Gleska University enrolls approximately 375 students per year. Interview respondents noted that methamphetamine addiction is problematic in the community. Based on the agency interviews and the prospective client surveys, the top legal aid needs are listed in approximate order of the number of responses below:

- Abuse and Neglect
- Guardianship (especially children/kinship)
- Juvenile (all case types)
- Housing (all case types)
- Tribal Criminal Cases
- Criminal Record Expungement
- Domestic Violence
- Human Trafficking
- Food Stamps/TANF
- Wills
- Probate
- Disability Rights

There is a critical shortage of attorneys in this area of the state, especially in Todd County. Almost every case the court processes is pro se. The attorneys that do serve this area cannot take some cases due to conflict of interest including the public defender. As a result, individuals sit in jail for a long time. The backlog of the criminal court is “massive.” The consequences of a lack of attorneys are that individuals are sitting in jail for weeks or months without representation. As a consequence, there were approximately

50 individuals in jail as of August 2022. Additionally, the intersection of state and tribal laws for tribal members living on state land is difficult to navigate for some.

In the Lakota culture, the grandma, cousin, aunt, or other relative takes care of their family. At times, one relative is responsible for several children in their family. Without legal assistance, it is difficult to get legal guardianship and therefore assistance.

“The Native Americans are already taking care of their own. We need to recognize that.”

“There is a huge waiting list that needs representation. It holds up the permanency of children.”

As reported across South Dakota, the courts and CPS have a difficult time with the disposition of children with severe behavioral issues. Unfortunately, CPS does not have the resources to deal with these situations.

“Sometimes children are squeezed into the abuse and neglect system to get behavioral health treatment.”

Human trafficking was also reported as a priority for law enforcement and prosecutors but was understood that this was not a legal aid priority. However, legal aid could provide services to survivors. As reported in other communities, children are trafficked by parents in exchange for drugs or money. Victims are reluctant to ask for help.

“They are too afraid to report to law enforcement due to shame, addiction, and fear of being killed.”

The tribal judge interviewed shared that they work with juveniles when they come into the court system.

“I want to hear them tell their own story. I want them to have a say. What is your goal?”

She also shared stories of hope. For example,

“Last week were kids that were reunified with their father.”

Rosebud is also experiencing a critical housing shortage. The interviewees observed that homes are treated like apartments.

“If it is a three-bedroom home, there are three families living in each bedroom. If a parent is truly homeless, it prevents reunification with their children.”

**Sioux Falls.** Located in southeastern South Dakota, Sioux Falls is the largest city in the state with a population of 195,850. Sioux Falls has a diverse economy including agriculture, healthcare, retail, and distribution. Sioux Falls has several healthcare and social service agencies that serve individuals such as the homeless, victims of violence, and veterans, that also require legal services. Based on the agency interviews and the prospective client surveys, the top legal aid needs are listed in approximate order of the number of responses below:

### Top Legal Needs | Agency Interviews

- Child Custody
- SSI/SSDI
- Immigration
- Landlord/Tenant
- Juvenile (all cases)
- Food Stamps/TANF
- Debt Collection
- Human Trafficking

### Top Legal Needs | Prospective Client Surveys

- Food Stamps/TANF
- SSI/SSDI
- Medicaid
- Disability Rights
- Landlord/Tenant
- Child Support
- Access to Housing
- Mental Health

Immigration and human trafficking were prioritized by interviewees; however, they are not within the current scope of work of A2J, DPLS, or ERLS. Therefore, solutions outside these agencies will be required. Immigrants seeking a better life are moving to rural and urban communities in South Dakota. There are very few attorneys in South Dakota who accept immigration cases, and most are in Sioux Falls. Like the rest of the country, there are many cases in the backlog. All Minnesota, North Dakota, and South Dakota cases are handled by a court in Ft. Snelling, MN. The lack of translation services at many state, local, and nonprofit agencies makes it difficult to receive even basic services.

Human trafficking is becoming more prevalent in South Dakota. State and federal law enforcement and prosecutors are increasing their capacity to prosecute human trafficking. Nevertheless, sex and labor trafficking victims and survivors require several legal services that do fall within legal aid. Examples include criminal expungement, identification documents, and child custody.

The COVID unemployment benefits were being recalled as the Department of Labor said that individuals are not entitled to unemployment benefits. They say the beneficiaries said they only have 15 days to appeal. There was a big push to get the money out to people that were unemployed and then there was a big push to get the money back. There was a climate of fear as beneficiaries were accused of committing fraud. The consequence was jail or bankruptcy.

Individuals that are homeless or near homeless have multiple legal needs.

“Many of the men (ages 50+ years) that are homeless were construction workers. They worked until they could not physically work in that industry anymore due to bad joints, bad backs, or other ailments. These men are broken. They apply for disability but are instantly denied. They are advised to hire an attorney to advocate for them. However, they cannot afford an attorney. They do not have computer skills or other office skills that allow them to find other employment. Some are illiterate. There are few resources for men.”

Social service and healthcare agencies diligently work to serve as many people as they can. However, there are limitations to what they can provide without legal service limitations. Examples include guardianship, landlord/tenant, SSI/SSDI, and all family law cases.

“There will never be a lack of legal aid needs to fill. Expand as much as possible.”

**Sisseton Wahpeton Oyate Tribe.** The Sisseton Wahpeton Oyate Tribe sovereign nation is in northeastern South Dakota and a small portion of southeastern North Dakota. In South Dakota, Lake Traverse Reservation extends into Roberts, Marshall, Day, Grant, and Codington Counties. It also extends to Sargent and Richland Counties in North Dakota. The local population in both states is approximately 13,200. The Sisseton Wahpeton Oyate Tribe economy is driven by agriculture, retail businesses, casino, and primary and secondary education. Sisseton Wahpeton Tribal College enrolls nearly 250 students each year. Based on the agency interviews and the prospective client surveys, the top legal aid needs are listed below:

- Child Custody
- Guardianship (children/adults)
- Abuse and Neglect
- Debt Relief
- Tribal Criminal Cases
- Visitation
- Human Trafficking
- Divorce
- Wills
- Probate

Sisseton Wahpeton Oyate tribal court currently employs a public defender. DPLS was assigned public defender cases in the past. Currently, DPLS does accept co-defendants in criminal cases or those defendants that the public defender has a conflict of interest. The tribe also employs experienced tribal lay advocates who work with individuals through court proceedings.

Interviewees noted cases that involve children are a priority for both tribal and state courts. One respondent noted that when parents bring a child that was abused and/or neglected by another party outside the immediate family, they need legal representation to ensure they know their rights. The opportunity to assign Guardians ad Litem to each child in the legal system was also noted.

Interviewees reported the “checkerboard” land ownership between the tribe, BIA, and private (state) land confuses whose jurisdiction should be assigned the case. In addition, it is very difficult to navigate between tribal and state agencies. Litigants in the same case may live on tribal and state land which may complicate matters.

“We are not sure whom to call in an emergency involving youth. Child’s Voice (based in Sioux Falls) may be the closest resource.”

The Roberts County and Sisseton Wahpeton Oyate Tribe Veteran’s Service Officers suggested they can partner with DPLS to refer veterans for legal services. They pointed out that legal aid may be able to assist veterans who are having difficulty navigating the PACT Act. In 2022, the PACT (Promise to Address Comprehensive Toxics) Act was passed to expand health care and benefits to veterans. The PACT Act specifically expands eligibility for Veterans Administration health care for veterans with toxic exposures, adds more than twenty presumptive conditions, and adds more presumptive exposure locations for Agent Orange and radiation.

**Standing Rock Sioux Tribe.** The Standing Rock Sioux Tribe sovereign nation is in northwestern South Dakota and southwestern North Dakota. In South Dakota, Standing Rock extends into Corson, Dewey, and Ziebach Counties. In North Dakota, Standing Rock is in Sioux County where their administrative office is located. The local population in both states is approximately 8,200. The Standing Rock Sioux Tribe economy includes ranching, retail businesses, and casinos. Sitting Bull College enrolls nearly 300 students each year. Based on the agency interviews and the prospective client surveys, the top legal aid needs are listed in approximate order of the number of responses below:

**Top Legal Needs | Agency Interviews**

- Domestic Abuse
- Human Trafficking
- Elder Abuse
- Child Custody/Support
- Housing Cases
- Protection Orders
- Juvenile (all cases)

**Top Legal Needs | Prospective Client Surveys**

- Domestic Abuse
- Food Stamps/TANF
- Medicaid
- Living Wills
- Access to Housing
- Elder Abuse

The suggested legal aid priorities in Standing Rock varied from cases involving children and victims of violence, elder physical and financial abuse, and housing.

Victims of violence, including domestic abuse, affect all genders. There are few services for adolescent boys and men who have been victims of violence and as a result, some die by suicide. Interviewees reported methamphetamine continues to be a problem and is a primary reason for violence and child neglect. Single men, women, and even siblings are taking care of children as parents are taking meth.

Human trafficking has been increasingly problematic according to interviewees.

“Boys and girls are being trafficked by their parents, boyfriends, and other people they know. They manipulate the victims with drugs. No one is convicted of human trafficking. If the victims can get away, they need to get into treatment.”

Interviewees requested greater advocacy for elders, specifically when they are physically, emotionally, and financially abused. Elders are scared to file charges. They are scared of life changes. The interviewees share stories of the elders’ children stealing their parents’ money and groceries. Assisted living and nursing homes are few and far between in this region.

Access to housing was another priority issue identified by interviewees and prospective clients.

“Three to four families live in one house. Each bedroom is its own apartment. One family (wife, husband, and baby) lives in a broom closet. They must curl up to sleep.”

Several houses are in dire need of repair.

Navigating systems is nearly impossible when individuals don't have their birth certificates and social security card. They cannot get resources. If they are being abused, it is difficult to leave and get established on their own.

Story: A man applied to receive DPLS services. He made \$14 per hour after being in the same job for 6 years. He drove approximately 60 miles round trip to work. He made too much (approx. \$25,000 versus \$16,988).

Other cases mentioned were employment discrimination, food stamp/TANF, wills and probate (especially involving land), guardianship (children and adults), and predatory lending situations – wages are garnished to pay lenders.

**Sturgis.** Sturgis is the county seat for Meade County and is located west of Rapid City on I-90. Sturgis has a population of 7,020. Sturgis hosts one of the largest motorcycle events in the world, the Sturgis Motorcycle Rally, which draws 500,000 people for 10 days in August. The Fort Meade Veteran's Administration Hospital, one of two veteran's hospitals in South Dakota, is located just outside of Sturgis. Based on the community partner interviews, the following cases were reported as the highest priority for legal aid:

- Child Custody
- Guardianship
- Protection Orders
- Domestic Abuse
- Wills
- Divorce
- Human Trafficking
- Tenant/Landlord
- Driver's License

Similar to other communities, cases regarding children were the top priority for legal aid. The court has observed that people resort to protection orders instead of pursuing child custody when they cannot afford an attorney.

"Judges have to treat emergencies. It can take a lot of court/clerk time to get through these cases."

Human trafficking was a focus in Sturgis as well, primarily due to the Sturgis Motorcycle Rally. Additionally, after the Rally, some individuals are left behind and require services. The agencies and prospective clients noted they cannot afford legal representation.

"Some people do not have money to pay for a lawyer. That doesn't mean they should not be represented."

Veterans' legal needs in the region include guardianship, household/tenant, and wills.

Those that have received legal aid services are grateful.

“Legal aid gives victims a voice. When you are in trauma, it is hard to represent yourself.”

From the client’s perspective, it is good to have a pro se option. However, they have the following to say about the pro se forms:

“I do not understand what I am reading.”

“I gave up.”

“Intimidating”

“Confusing”

“Under pressure”

“It is hard to know what to say.”

Finally, when asked what barriers there were to get legal aid, the community agencies stated a lack of legal aid attorneys, clients that did not meet eligibility but could not afford an attorney, and the inability to fill out the online intake form.

“Many elderly people and a lot of low income do not have access to computers. They need a phone number to call that will be answered and a place to visit in their communities in person.”

**Vermillion.** Vermillion (population 11,695) is located in southeastern South Dakota and is the home of the second largest university in the state, the University of South Dakota (student population 9,400). One out of six households lives in poverty. Based on the agency interviews and the prospective client surveys, the top legal aid needs are:

- Medicaid
- Landlord/Tenant
- Employment
- Immigration
- Family Law (all case types)
- Elder Abuse
- Wills
- Identify Theft

The Vermillion Housing Authority issues 130 – 190 vouchers monthly. They have a waiting list that is one to twelve months long. Affordable housing becomes more limited during the academic year when students are attending classes. Interviewees observed that tenants do not understand their rights.

“Landlords routinely violate tenant rights.”

People who are homeless find creative solutions. The Vermillion and Yankton communities collaborate to serve this population. If an individual has a criminal record, they are not eligible for Section 8 vouchers or live in certain rental properties.

“In these cases, it results in having two houses. One is for the mom and kids. Dad rents a super cheap apartment but really lives with mom and kids.”

Those individuals that do not qualify for Medicaid but do not have insurance are financially devastated in the event of an accident or disease. The Clay County Welfare Office reported that individuals come in with medical bills ranging from \$10,000 to over \$100,000. Medical bills, natural disasters, divorce, and other factors cause situational poverty that is difficult to recover from.

Veterans returning to the region have significant technical skills they gained in the military such as nuclear engineering, information technology, and electronics. Unfortunately, their skill sets are not a perfect fit for the local economy and the result is that they are underemployed. In addition, some veterans have post-traumatic symptom disorders. There is no transportation from Vermillion to the Sioux Falls Veteran Administration Hospital.

“Sometimes they apply for VA medical care and are denied access to it.”

Veterans need assistance navigating systems.

Family law cases such as divorces, child custody, and visitation were identified as legal aid priorities in the interviews. The consequence of not having an attorney can be devastating for the victim and their children. Even if the victim is able to leave the relationship, some abusers steal their identity for financial gain.

Additional issues that were identified were criminal expungement, tribal law for Native Americans living in Clay County, and assistance with getting legal documents such as social security cards, birth certificates, and driver’s licenses.

The Vermillion community service agencies collaborate to serve Clay County and surrounding regions.

“We want to provide early intervention and advice to keep people out of poverty and out of the crisis.”

**Watertown.** Watertown, population 22,635, is the county seat of Codington County. Watertown is the home of Lake Area Technical College which has 2,200 students. The economy is driven by agriculture, manufacturing, retail, health care, and social services.

**Top Legal Needs | Agency Interviews**

- Domestic Abuse
- Child Custody/Support
- Landlord/Tenant
- Guardianship (children and adults)
- Mental Health

**Top Legal Needs | Prospective Client Surveys**

- Domestic Abuse
- Landlord/Tenant
- Wrongful Termination
- Mental Health
- Debt Collection

Domestic abuse was identified as a top priority in the Watertown region. When the victim finally makes the decision to leave their abuser and they cannot afford an attorney, one of two scenarios play out:

- a) The non-abuser spouse leaves the marriage without any assets and possibly, non-custodial rights of the children.
- b) The non-abuser spouse gives up as they do not want to lose custody of the children and cannot afford to live on their own. Therefore, they stay in the abusive relationship.

Private attorneys in Watertown have very full caseloads and therefore not many attorneys in Watertown or the state take domestic violence cases. The local domestic violence shelter guessed approximately 75% of domestic violence victims were turned away as attorneys do not have enough time to take their cases.

“Children are the losers.”

“They are in a traumatic state of mind. They cannot fill out paperwork. The abusers try to withhold and control the children at all costs. Sometimes a victim will initially choose the abuser over the children because they are fearful of losing everything. Even if they have an attorney, the legal process is overwhelming. They are anxious and scared.”

Three housing issues were identified by interviewees and validated by prospective clients: landlord/tenant rights, affordable housing, and sellers’ not disclosing issues with the property. Housing is not affordable for many people. Of those places that are affordable, several are not safe. They had mold, mildew, or other health issues. The Beacon Center received an emergency solutions grant (ESG – Housing). The rental must pass inspection (they use a housing inspector). Renters could stay 3 – 4 months (versus 30 days) and pay fair market rates. Domestic violence victims and advocates reported the landlord and tenant relationship is a barrier for someone in trauma. If the police are called for a domestic violence incident in the “no crime” rentals, some landlords will evict everyone in the rental unit including the victim and children.

Interviewees suggested the need for psychological services and support alongside legal services. One or both parties may have diagnosable issues. Victims also have codependency issues which do not help their cases.

Similar to other communities, pro se forms are commonly used by individuals.

“Although the spirit of the pro se forms is in the right spot, they are a nightmare to fill out. The judges have to take a lot of time to sort through the forms and information.”

Mediation was suggested as an alternative to litigation that would save courtroom and attorney resources.

**Winner.** Winner, population 2,921, is the county seat of Tripp County and the administrative center of Todd County. Winner neighbors the Rosebud Sioux Tribe Reservation and is the home of many tribal members. Approximately one out of five households in Tripp County lives in poverty. Based on the community partner interviews, the following cases were reported as the highest priority for legal aid:

- Child Custody
- Guardianship
- Abuse and Neglect
- Juvenile Discipline/Expulsion
- Divorce
- Child Support
- Protection Orders
- Juvenile Truancy/Delinquency

- SSI/SSDI
- Wills
- Employment Sexual Harassment
- Housing Issues

The interview respondents identified the first priority for legal aid is third-party custody cases, for example, grandparents who have temporary custody until parents can care for their children themselves. CPS will screen approximately 16,000 reported abuse and neglect cases across the state each year. If needed, CPS will first try to place the children in kinship (grandparents, aunts, uncles, etc.) care. If the children do not go into the system, attaining legal guardianship is important to be able to access medical services, school services, and any other services that require proof of guardianship. Sometimes, children are placed with a neighbor or friend. If the kids do not go into the system, the kin does not receive services including legal services. Sometimes, the third party (kin, friend, neighbor) can afford to get an attorney to file for guardianship of the child. Rarely do parents or kin have the funds to hire an attorney. Many people wait months to years for legal help. These cases are incredibly difficult for the child. In addition, there is no social worker to guide them.

“Taking a child from their home is already heartbreaking. If the parent(s) could have an attorney from the beginning, it would mitigate a lot of problems for the child, parents, guardians, CPS/ICWA, and the court.”

The custody cases have the same issues. Parent A can afford an attorney. Parent B cannot afford an attorney. They are sometimes on a waiting list for months. Cases, where both parents have an attorney, go much smoother. Parents are willing to listen to attorneys and make a reasonable plan.

Coordination between tribal and state courts is a “huge problem.” When the guardian lives on state land and the parents live on the reservation, it is difficult to navigate between the systems.

When individuals cannot afford an attorney, they either do nothing and stay in their current situation or complete the pro se forms and represent themselves. Observations from the court employees reflect those across the state.

“There are the cases that we see in the court, but those are just the tip of the iceberg. There are many more cases that need legal counsel that never get help.”

“One out of 10 individuals knows what they are doing (when filling out pro se forms). Nine out of 10 do not read instructions or they cannot comprehend instructions.”

“When people are in crisis and stressed, they are not in a situation where they can complete the forms.”

“The court clerks see so many people that are overwhelmed by the pro se forms. The pro se divorce forms are especially difficult.”

**Yankton Sioux Tribe.** The tribe’s official name is Ihanktonowan Dakota Oyate and their tribal headquarters are located in Wagner. The Yankton Sioux Tribe sovereign nation is located in Charles Mix County in south central South Dakota. The local population is 6,824. Local employers include but are not limited to the Fort Randall Casino, Indian Health Services, Bureau of Indian Affairs, Marty Indian School, and the tribe itself. Based on the agency interviews, the top legal aid needs are:

- Guardianship
- Child Custody
- Divorce
- Probate
- Power of Attorney
- Public Defense/Tribal Criminal

The Tribal Judge and Court Administrator clearly articulated the challenges of court operations on a small budget (\$122,000 annual budget in 2023). The court’s funding is from the BIA 638 - Tribal Allocation Priority (TAP) program. Due to the low budget, the court cannot hire the required staff or improve technology infrastructure as well as cover operational expenses. In the meantime, they have a completely full docket with a proportionally high rate of civil cases, especially guardianship.

“We spend our life making do.”

“The tribal courts that function well are because of the willpower, talent, and sacrifice of the staff. The staff is caring and competent. They complete heroic work.”

“Tribal courts are like M.A.S.H. – not pretty, not fancy, dirty, nasty, ugly. We do the best we can with the limited resources provided.”

The tribal court and local agencies identified the top priorities for legal aid as child custody, ICWA cases, guardianship, and divorce. They advocated for Guardian ad Litem positions both in the legal aid and private law communities.

“We just want to make sure kids are safe.”

Interviewees reported the “checkerboard” land ownership between the tribe, BIA, and private (state) land causes confusion and, at times, delays in response. In addition, it is very difficult to navigate between tribal and state agencies. Litigants in the same case may live on tribal and state land which may complicate matters.

Due to the complexity of probate cases in Indian Country and the checkerboard land distribution, probate cases are especially difficult.

Like other rural and tribal communities, attorneys are in short supply. Almost all cases in the Yankton Sioux Tribe are pro se.

“When DPLS cannot represent the litigants, they are not able to get another legal representation in most cases.”

“Attorneys who work in Indian Country or rural South Dakota need to have understanding spouses due to the travel, long hours, and pay. The job will interfere with home life.”