

# Los Angeles Justice Fund

Lessons and Recommendations from the Pilot Program





## **Los Angeles Justice Fund: Lessons and Recommendations from the Pilot Program**

### **NFF AUTHORS**

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# Introduction and Context

Recent research indicates that access to legal services improves case outcomes. A report from the California Coalition for Universal Representation (CCUR) shows that detained and released immigrants in Los Angeles County who were represented attained favorable outcomes more than five times as often as their unrepresented counterparts. Aware of the positive impact of informed legal defense, the County of Los Angeles, the City of Los Angeles, the Weingart Foundation, and the California Community Foundation (CCF) responded to increased immigration enforcement practices by establishing the Los Angeles Justice Fund (LAJF). This pilot grantmaking and capacity-building program was designed to strengthen the capacities of legal service providers to provide critical and timely legal representation for more immigrants in Los Angeles County who are detained by immigration officials or in removal proceedings. CCUR estimates that 68 percent of detained immigrants and 27 percent of non-detained immigrants are unrepresented. Through this program, LAJF seeks to increase the number of detained immigrants that are provided legal representation.

This report was commissioned by the California Community Foundation to surface the financial impact of LAJF on participating organizations. Information for this report was gathered by Nonprofit Finance Fund (NFF) through two facilitated dialogue sessions with cohort members, 11 one-on-one surveys with organizational leaders and staff, and a multi-year financial trend analysis on a subset of five cohort organizations.

## **Findings from our work are contained in this report and are meant to:**

- **Elevate cohort learnings from participation in the pilot**
- **Reveal priority needs of cohort members to continue and expand services**
- **Share opportunities to strengthen a potential permanent LAJF program**

“The LAJF partnership has expanded our ability to provide access to legal services for clients detained in Adelanto. Previously, we did not have capacity to represent clients at that detention facility. We are thrilled to be able to provide this service. And the impact of our work has been greater as a result of the partnership, in particular, with other LAJF detained collaborative partners who have expanded at the same time in this area.” Legal Service Provider

# LAJF Structure and Impact on Service Providers

The 18 organizations represented in the initial cohort include: 11 nonprofit legal service providers that have received contracts to provide removal defense services for detained immigrants; five capacity-building organizations for technical assistance to the cohort partners; Vera Institute of Justice for data collection and evaluation services; and Nonprofit Finance Fund for financial technical assistance. The California Community Foundation serves as LAJF's fiscal sponsor and program administrator.

LAJF resources have been made available at a critical moment to build organizational and regional legal representation expertise for detained immigrants. This report focuses on the impact LAJF has had on the 11 nonprofit legal service providers as they adapt to provide more services.

## FUNDING

LAJF service provider contracts have two-year terms and range from \$180,000 to \$775,000. The contracts were structured with two key features that are well designed to meet service provider needs related to taking on a larger case load. First, funds from the contracts were deployed to service providers upfront, thereby reducing the risk of cash flow challenges that typically accompany reimbursement-based government contracts.

Second, the contracts were structured to fund a variety of needs, allowing service providers to maximize the use of funds within their unique organizational context. This flexibility in the use of funds was key, as service providers required two distinct types of funding to expand their case load: capacity-building money to help them invest in their enterprise and infrastructure, and service delivery funding to cover the ongoing cost of operating an organization that continues to manage removal defense cases. Some service providers required more capacity-building support than others, depending on the organizational infrastructure in place at the time LAJF began. Common uses of funds for capacity-building included:

- Hiring and training new staff, including lawyers who required training and retraining as new governmental policies were enacted
- Managing and maintaining new data systems required to collect and report on cases
- Onboarding existing staff to new systems
- Building and adapting administrative capacity to efficiently manage scheduling and tasks
- Developing funding opportunities to ensure cases are supported and the organization is financially sustainable after the two-year contract ends

In addition to the capacity-building support, the funds were used to support activities associated with direct client representation.

During the pilot phase, organizations received flat-fee contract payments at the beginning of each grant year. These payments were based on assumptions of the activities conducted for each

case. However, provider experiences during the pilot phase highlighted the range of time, cost, and additional resources required for each case. The considerations for serving undocumented immigrant communities, specifically those detained at Adelanto Detention Facility, necessitates additional resources to serve the same number of clients.

## REPORTING

Service providers were asked to report back on how funds were expended. The understanding of which costs could be billed against the contract varied by service provider, based on their interpretation of the reporting structure. Some service providers interpreted the reporting structure as the arbiter of which costs are recoverable: if a line item does not appear on the report, then it cannot be billed against the contract. Other providers advocated for the inclusion of an “other costs” line item on the report, though it has not been consistently used in reports because service providers began recording “Other” hours at different times.

In addition to the inconsistent reporting, service providers shared that additional hours and activities went unreported altogether. Through our analysis of the removal defense workflow (see Figure 1), we estimate that service providers are spending an additional 34.5-51 hours per client that are unreported. The mismatch between the actual work and the reportable categories makes it challenging to truly understand the cost of removal defense. Further, the magnitude of the gap cannot be sustained over the long term and requires services providers to either secure subsidy sources of revenue or reduce the number of cases they take.

## COHORT LEARNING

LAJF provides an unprecedented opportunity for cross-sector partnership. The pilot phase provided service providers with access to capacity-building and knowledge and resource-sharing opportunities, including those listed in Figure 1.

While each case brings its own nuances, the mapping in Figure 1 elevates the mismatch of the activities and hours applied to conduct this work in contrast to what reporting templates allowed. The magnitude of the difference underscores an urgency for revised contract terms that encapsulate actual costs. In addition to case-related work, the time spent by service providers on cohort-related activities is also under-compensated by LAJF and must be covered by other revenue streams. The cohort gatherings require approximately 30 hours per month of staff time per organization. Organizations shared that since March 2019, an additional eight hours each month were spent in appeals for continued LAJF support.

# Estimates of Underreported Hours

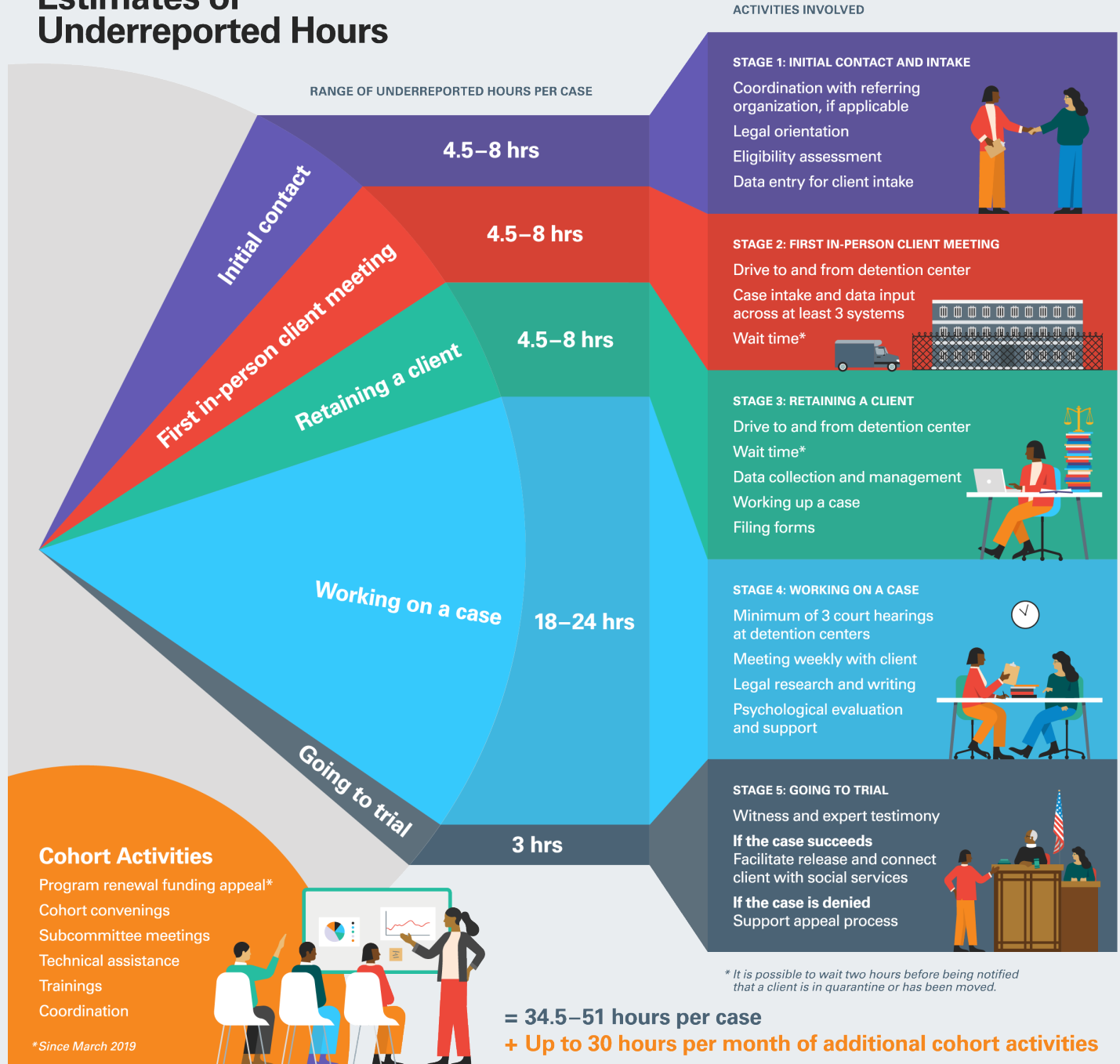


Figure 1: LAJF legal service providers identified the following broad phases of legal representation and cohort activities. Each component indicates the primary activities undertaken, including NFF's estimate of underreported hours. These estimates are based on attorney input through the facilitated sessions and survey responses.

## WORK SPACE NEAR ADELANTO DETENTION FACILITY

Another critical form of support provided through LAJF has been the accessible work space at Adelanto Detention Facility. This workspace has mitigated the inefficiencies and delays that accompany working at the facility.

For example, each client visit at Adelanto Detention Facility may entail six hours or more of attorney time: four hours of travel, one hour of wait time, and one hour for the meeting itself. Access to the workspace has allowed attorney to better manage days at the facility, especially on days when attorneys are notified after arriving that the client visit is not allowed.

## BUSINESS MODEL IMPACTS

The extent to which organizations have been able to maximize LAJF dollars for client representation has been uneven across the cohort. This ability depends on an organization's existing infrastructure, existing expertise and skills, and available capacity. Organizations that already had the systems and people in place were better positioned to take on cases quicker.

An organization's ability to absorb the additional work to serve LAJF-funded cases depends, in part, on the organization's liquidity. For the five organizations analyzed, found encouraging financial indicators. The groups averaged a 14 percent post-depreciation surplus, 7.5 months of cash, and 5.5 months of liquid net assets. (The calculated median values indicate a similar dynamic.) These healthy financial indicators suggest the ability to withstand any changes to their operating or funding environment. These groups are also more likely to be able to maintain clients whose cases continue beyond the contract's term.

For other organizations, the experience has been different. Interview responses emphasized that the funds were necessary to invest in systems, people, and core administrative needs before engaging in casework. Interviews with service providers revealed that, while LAJF legal service providers are receiving more funding for cases than previously, the resources granted do not reflect the extent of case activities from initial contact to final legal determination, nor do the resources fully support the organizational infrastructure needed to meet rising demand.

One survey respondent shared that their organization would "need significantly more investment in infrastructure and longer grant periods to create a sustainable program in-house and across agencies." For all LAJF providers, the ability to absorb the gap between the contracted amount and the actual cost of delivery depends on an organization's financial health and the availability of flexible resources.

Because the reliability of long-term funding is uncertain, some groups have been hesitant to use contract funds for their infrastructure needs, inhibiting the intended impact of the pilot program. To fully meet the immigrant defense needs of Los Angeles County, funders will need to continue to provide cohort organizations with capacity-building funds to continue scaling (e.g., staff/knowledge/training for financial planning, data collection/reporting, case intake, general and administrative costs). As in the pilot phase, continued capacity-building funds provide the upfront capital needed to invest in the organization's program and related infrastructure needs. Ultimately, these investments help service providers better differentiate between the funding needed for capacity building and client delivery. Knowing the actual cost for each of these activities will inform long-term fundraising strategies.



# Findings

The LAJF partnership is applauded by cohort members for anchoring both cohort organizations and the broader regional ecosystem. Its financing structure, depth of technical assistance provided, and cohort-level gatherings are acknowledged as indispensable program elements. At the same time, NFF has observed the challenges that LAJF providers have experienced in managing the administrative requirements of the grant and the impact that this has had on their capacity to deliver legal services, as well as their morale. Below are our findings and recommendations from the pilot phase that we hope will inform the LAJF over the long-term.

## SUCCESSSES: LAJF COMPONENTS TO MAINTAIN OR EXPAND

**Funding supported legal services for those in immigration detention or in removal proceedings facing possible deportation.** Service providers find it difficult to raise funds for immigrant removal defense. LAJF played a critical role in expanding access to legal services for these vulnerable individuals.

**Funding enabled organization-level investment for growth.** The flexibility and upfront payment of LAJF grants allowed organizations to increase their staff to provide legal services to undocumented immigrants.

**The flexible and flat-rate contract structure positioned service providers for growth.** Allowing the service providers to determine the best use of funds maximized the efficiency of their use. The \$1,381,600 philanthropic portion was particularly crucial, allowing organizations to build capacity early by hiring, training, and onboarding new personnel at the beginning of the pilot phase. As a result, LAJF service providers have grown their capacity and are now able to serve more clients. By providing flat-rate (as opposed to line-item expense reimbursement) contracts, LAJF grants provided the flexibility service providers needed to address their unique organizational bottlenecks that would otherwise stifle service expansion.

**Upfront payments allowed more service providers to expand.** Often, government contracts require organizations to have enough cash on hand to pay for services while waiting months for reimbursement. This limits the number of organizations able to participate in the contract. LAJF's approach of providing payments up front meant service providers did not need to hold large sums of cash to provide services under LAJF, thereby making the contracts easier to administer and opening participation to a larger number of organizations.

**The cohort model provided valuable partnership opportunities.** The LAJF pilot structure included multiple platforms for cohort organizations to come together, draw from each other's knowledge, and strategize on shared challenges. This was particularly valuable given the complexity of ongoing policy changes related to removal defense. Philanthropic investments of \$1,445,000 intentionally funded capacity building for the cohort through legal training, financial planning support, and pro bono coordination. In addition, CCF hosted bi-monthly meetings that allowed organizations to share tools

and lessons with one another. The benefits of these resources and shared knowledge have extended beyond LAJF-funded cases and have helped legal service providers with similar cases not funded by LAJF.

*“We are all helping out one another for the better of the community and the LAJF alliance has been very strong; everyone is always willing to share resources and helpful tips.”* Legal Service Provider

## CHALLENGES: LAJF COMPONENTS TO REVISIT OR CHANGE

**The burdens of contract compliance left attorneys with less time for casework.** Participating organizations emphasized the importance of compliance and reporting on contract deliverables. However, multiple providers voiced challenges of managing the individual financial reporting requirements for each of the revenue sources: county, city, and philanthropic. Service providers struggled to piece together revenue sources to fund the actual activities that comprise removal defense services. Additionally, the extent of reporting requirements across multiple platforms and systems curtailed organizational capacities. The depth of reporting required organizations to establish new internal systems and protocols solely for the contract, and these data-gathering practices were not seen as useful to inform decision making.

**Grant reporting did not provide accurate or predictive cost-per-case data.** Legal service providers shared that data collection for grant reporting is compliance-driven and does not provide the funding partners with an accurate picture of the actual costs of service delivery. The designated reporting codes to track hours do not encompass the breadth of recruitment, capacity-building, or client delivery work employed to deliver removal defense legal services. This means LAJF reporting cannot reliably be used to accurately represent the cost per case during the pilot phase, nor anticipate future costs for subsequent funding. Should stakeholders continue to require hourly reporting, a more accurate reporting process would draw more insightful observations on the types of activities and the hours required to adequately serve detained immigrants.

*“We would appreciate more consistency as to what data is requested and how to collect it, clarification as to why it is needed and how it will be used, reduction of ad hoc reporting requirements, and more effort made to prevent the collection of redundant information.”* Legal Service Provider

**Some costs went underfunded, leaving fewer immigrants served and putting a strain on organizations’ financial positions.** While accurate data is not available through reports, service providers emphasized that the grant amounts did not cover the actual cost of delivering removal defense, particularly for detained immigrants. Given the physical location of the Adelanto Detention Facility, LAJF legal providers must consider unique dynamics specific to these cases, including two-hour commute times, wait time at the detention center, and coordination of wrap-around services. The philanthropic portion of the LAJF was intended to cover these types of expenses, especially organizational capacity needs. However, by December 2018, only \$659,820 – 48 percent of the total \$1,381,000 philanthropic investment designated for direct representation – had been allocated. The contrast between the amount allocated and the magnitude of underreported

activities underscores the mismatch between reportable activities and the essential activities that organizations struggle to finance, as well as ongoing confusion about the parameters for each source of revenue. Based on financial reports and interviews, it is clear that LAJF legal service providers are often choosing to stretch their LAJF grant by subsidizing cases costs with other revenue sources or their own savings. Service providers without these additional sources of funds have to serve fewer LAJF clients.

“Complex detained removal defense work requires significant time and effort that is not captured entirely in the LAJF reportable activities categories. Yet these activities go to the heart of work: they are about meeting with our clients, and spending the time required to develop their cases. Ultimately, the work will not be sustainable unless funding reflects the realities of this complex and critical work.” Legal Service Provider

**LAJF funding is short-term, leaving fewer immigrant served and creating stress for staff.** The short-term nature of LAJF funding has limited service providers’ ability to manage their legal teams and judiciously plan client delivery. Legal service organizations are mindful that they will have to tap into their own safety net if funds are not granted to support the completion of removal defense cases, which often take more than two years. Many legal service providers noted the number of hours spent each month making appeals for continued support from public agencies, which took time and mental energy away from casework. The funding uncertainty has already caused some recently hired attorneys to leave for more stable job opportunities.

**Eligibility requirements increase cost per case and restrict access to much-needed services.** Eligibility requirements limit which detained immigrants may receive services from the fund. These requirements require providers to spend substantial staff time and resources to determine eligibility either before continuing casework or alongside the casework. In addition to impacting the use of LAJF funds, staff morale suffers when attorneys are told that they cannot work with certain individuals, including detained parents separated from children at the border, arriving asylum seekers, and long-time LA residents who happened to be residing temporarily in neighboring counties prior to detention.

“... funding restrictions have impacted my organization’s ability to help Cambodian and Vietnamese refugees with old criminal convictions and removal orders, who are being targeted for re-detention and removal.” Legal Service Provider

“... we had to turn down many clients because of strict requirements related to residency. It is extremely difficult to get ID docs from the undocumented individuals to prove eligibility for county [services]. Also, time and expenses would go into helping undocumented individuals get these documents (i.e., library cards), accompanying them to DMV, etc.” Legal Service Provider

“We were not able to serve detained parents during the family separation crisis because of the onerous residency restrictions. Nor have we been able to serve any arriving asylum seekers – including members of the recent migrant caravan – due to the residency restrictions. Finally, we have not been able to serve long-time LA residents with certain types of criminal convictions or those who happened to live outside of LA for a short period prior to their detention.” Legal Service Provider

# Recommendations

**Continue providing flexible funding with upfront payments.** The deployment of upfront payments would continue to give organizations the assurance needed to invest in their capacity and begin to take on cases. Any future LAJF program should expand to support the entirety of activities required for removal defense. Expansive funding allows organizations to allocate resources as needed.

**Restructure reporting to capture all activities required to deliver services and reduce compliance burden. Any future reporting requirements should be straightforward and reflect the actual activities.** This will provide necessary data to: align funder and service provider expectations about caseload; support the management of long-term removal defense services; and navigate uncertainty and risk in a data-informed way. By adopting a single set of reporting criteria, funders would ease the burden on service providers and streamline tracking and managing.

**Reinforce healthy cross-sector partnership.** This will ensure service providers have the networks, relationships, and knowledge to successfully defend cases and build the regional response to immigrant removal.

**Provide resources to service providers to facilitate ongoing learning and partnership engagement.** Throughout all our interactions, legal service providers consistently emphasized the value of connection across the LAJF network. Cohort communication and activities are indispensable for the legal service providers, offering a supportive space for peers to share timely and nuanced expertise. However, partnership meetings and activities cost cohort organizations time and money, often drawing staff attorneys away from casework. Resource constraints restrict the capacity of service providers to fully participate in convenings and other partnership activities.

**Commit to multi-year funding.** During the pilot phase, LAJF providers have cautiously managed caseloads and staff retention. Reliable multi-year funding would help to alleviate the financial risk for service providers, freeing them to take on new cases, retain staff, and develop long-term strategies. Often these cases take years to resolve, and multi-year commitments will help organizations better plan for the future and also provide staff with the needed assurance that their work will be funded.

*“We provide extremely high-quality legal services on very complex cases under grueling circumstances. In order to keep staff and serve clients, funding must reflect actual cost of work and set realistic expectations for caseloads.” Legal Service Provider*

# Appendix: Methodology and Process

NFF's efforts focused on the following strategies:

**Five consulting engagements.** NFF provided financial analysis and offered deep-dive consulting engagements to the following organizations:

- Bet Tzedek
- Immigrant Defenders (ImmDef)
- Los Angeles LGBT Center (LA LGBT)
- Public Counsel
- Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)

*Consulting projects are ongoing and further information will be available by September 2019.*

**Roundtable discussions at LAJF convenings.** NFF led two dialogues among LAJF organizations to 1) surface the extent of activities undertaken for cases and 2) understand the magnitude of under-reported activities. The first of these dialogues focused on gathering input from LAJF legal service providers on all the case-related activities. The second dialogue focused on how LAJF accounted for the time on these activities and the extent of un- and under-reported activities. These dialogues took place on December 19, 2018 and March 14, 2019.

**Surveys of LAJF cohort members.** NFF designed and distributed two surveys to LAJF cohort members. The first survey focused on the providers and their experiences in managing the opportunities and challenges of LAJF resources. Questions investigated how LAJF funding has impacted cohort organizations, what barriers service providers faced, and what opportunities there are to improve on the successes of LAJF to date. The second survey was directed at the management staff of LAJF organizations to understand leadership's management of LAJF-funded cases and their observations for a permanent LAJF program.

## Interview Questions:

Below are questions designed for organizational leaders and program staff about LAJF's impact to their work.

### **Interview Questions for Managers (e.g., ED/CEO, FD/CFO)**

Goal: Learn how LAJF funding has affected organizational and financial management.

1. LAJF is intended for specific activities related to LAJF cases, but not all. How do you feel that this has impacted your organization?

- a. Do you have a sense of which activities related to LAJF cases are reportable or non-reportable? Which of the non-reportable activities have had the biggest impact?
  - b. Are there service activities that you believe should be reportable that are not?
2. As a management executive, what has been the impact of managing the non-reportable activities on your staff's capacity?
3. For your organization, do you have a sense of whether the LAJF grant program is generating a deficit as the result of these non-reportable costs?
4. Practically, how have you been able to manage LAJF non-reportable costs? How is LAJF revenue braided with other revenue sources? What types of sources have helped?
5. Learnings from the LAJF pilot program have been incredibly informative, especially given the complexity of the work and multiple stakeholders. *Note: If time is limited, please start with Question B.*
  - a. As we think about a long-term LAJF program, what are some of the components that you would like to see continued? (Please note: organizational leadership may not have a response to this question. If needed, examples of this may be the cohort meetings or the legal technical assistance support.)
  - b. What improvements would you like to see in the future? From your perspective as a grantee, would you change anything about how LAJF is administered? (Examples may include addressing some of the current non-reportable key activities or the reporting requirements.)

### **Interview Questions for Service Provider (e.g., Attorneys, Program Staff) at the March 14 LAJF Convening**

Goals: Identify activities needed to continue this work beyond the pilot stage, understand to what extent the LAJF model has placed burdens on service providers, establish the value of LAJF partnership.

*Note: Legal providers who attended the 12/19 meeting were introduced to the complete capital framework and briefly to the full cost framework as frameworks to consider when evaluating the unfunded LAJF activities.*

1. Funding from LAJF is intended for specific activities related to LAJF cases, but not all. (e.g. commute times, wait times, partnership meetings, TA support are not reportable.)
  - a. How do you feel that this gap between reportable and non-reportable activities has impacted your team's ability to deliver the LAJF legal service?
  - b. How does this impact your team's capacity and caseload for non-LAJF cases? (This may not be relevant for staff that is hired exclusively for LAJF cases.)
2. A core part of this work is the LAJF partnership itself. Many organizations have mentioned the importance of the collaborative meetings, the value of connecting with other LAJF organizations, and utility of the TA resources. How has the LAJF partnership impacted your organization? How has it impacted your ability to serve your LAJF clients? Has there been an impact to non-LAJF cases?

3. Learnings from the LAJF pilot program have been incredibly informative, especially given the complexity of the work and multiple stakeholders. *Note: If time is limited, please start with Question B.*
  - a. As we think about a long-term LAJF program, what are some of the components that you would like to see continued? (Examples of this may be the cohort meetings or the legal technical assistance support.)
  - b. What improvements would you like to see in the future? (Examples may include addressing some of the current non-reportable key activities or the reporting requirements.)
4. We know that there are various restrictions attached to the funding. Are there clients you would have been able to better serve if funding had been structured differently?
  - a. Additionally: Do LAJF funding restrictions ever deter you from pursuing certain kinds of work or cases? Is it ever easier for you to allocate to another funding source?
  - b. Are there cases not covered by LAJF that should be?
5. What are 1-2 things that you would like to share with the partnership funders?



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