

Program Evaluation: A Tool for Equal Justice

*Perspectives From Four State Leaders*¹

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By Ken Smith²

This article is about program evaluation as a tool for Equal Justice. The four leaders featured here talk about accountability, quality, effectiveness and growth -- topics right at the heart of the mission of every state justice community.

Program evaluation has always caused ambivalence in legal aid. It was initiated in the 1970s as a tool for promoting quality in an expanding federal program, but it became politicized during the 1980s to such an extent that many program leaders felt that evaluation was being used as a weapon against them.

In the 1990s, civil justice communities in leading states including Pennsylvania, Virginia, Ohio, Florida, New Jersey and Massachusetts applied evaluation successfully to demonstrate accountability for the use of public funds and promote high performance in their programs. In the 2000s, the focus has shifted to the local level as some of the nation's leading legal aid providers apply "program-owned" evaluations to learn how well they are serving their clients.

There are many people we could have profiled in this article. We chose these four because they are in the vanguard of civil justice leaders using program evaluation to advance the great work going on in their states.

Mark Braley:

Growing the funding base for legal aid in Virginia by demonstrating outcomes and accountability

For twelve years, Mark has been Executive Director of the Legal Services Corporation of Virginia (LSCV), which distributes state general revenues, filing fee funds and IOLTA revenues to eleven legal aid grantees.

He brings a diverse background to this job. He interned for legal aid while a law student at the University of Richmond, then became a prosecuting attorney and later a criminal defense and civil rights lawyer. In 1992, he landed the executive director's job at LSCV, founded in 1975 to oversee the delivery of legal services to the poor in Virginia. By 1995, with the legislature's transfer of the Virginia IOLTA program from the state bar foundation to LSCV, Mark oversaw a \$2.0 million state funding stream.

¹ A shortened version of this article will be published in an upcoming issue of the American Bar Association's *Dialogue* newsletter.

² Ken Smith is president of *The Resource for Great Programs*, a national corporation dedicated to providing strategic support to networks of community based organizations working in arenas having great impact on our society. *The Resource* offers a full range of evaluation services including desk reviews, peer reviews and design of statewide evaluation systems including outcome measures. For more information, visit *The Resource's* website at www.GreatPrograms.org.

By 2003 that figure had grown to \$8.0 million and total funding for the legal aid delivery system in Virginia had grown from \$9.0 million to almost \$20 million . That amount of growth would be respectable anywhere, but in this case the combination of a conservative state with an anti-new-tax legislature, a stagnant economy and plummeting IOLTA interest rates makes that accomplishment especially impressive.

Mark is modest, but others don't hesitate to praise his talents. "Mark is masterful," says Alex Gulotta, executive director of the Legal Aid Justice Center, an LSCV grantee. "In the midst of a budget crisis of monumental proportions, he's been able to show that legal aid deserves to be kept in the budget. He's very strategic...very effective in getting our message across."

Mark has also been effective at IOLTA "revenue enhancement." His steady pressure on banks has reduced service fees from 40 percent of gross IOLTA revenue in 1995 to only seven percent in 2004. While interest

Program Evaluation in Legal Aid: A Glossary

Peer review: An evaluation method in which a team of two or more experienced legal aid managers or advocates visits a program, collects information through face-to-face interviews, and delivers an assessment of the program's performance orally and/or in writing.

Desk review: An assessment based on a review of a program's reports, proposals, quantitative data, publications and other information. As practiced by *The Resource for Great Programs*, a desk review assesses a program on 15-30 quantitative and qualitative benchmarks derived from *The Resource's* national database of legal aid performance indicators covering the period from 1994 to the present.

Outcome measures: Used to assess the benefits received by clients as a result of the legal assistance provided -- for example, disability benefits, child support payments, protection from domestic abuse or preservation of one's home -- and/or the extent to which the client achieved the results for which s/he sought legal aid.

Performance standards: Criteria against which a program is evaluated. These may be explicit; for example, the *ABA Standards for Providers of Civil Legal Services for the Poor*, or they may be based on the expert judgement of experienced evaluators as to what constitutes good performance based on empirical observation of legal aid practice across the nation.

Funder-driven evaluation: An evaluation that is carried out or commissioned by a program's funding source as a part of its oversight function.

Program-owned evaluation: A self-evaluation that is carried out or commissioned by a legal aid program or project as a means of obtaining feedback about how well it is achieving its intended results.

The Evaluation Toolkit: A set of seven evaluation tools assembled in California to support relatively simple program-owned evaluations by grantees of the Equal Access Fund. Copies of the Toolkit and further information about the evaluation for which it was developed may be obtained from the web site of the Legal Aid Association of California (LAAC), at www.pic.org/toolkits or from links in the web site of *The Resource for Great Programs* at www.GreatPrograms.org.

The Ten Evaluation Case Studies: Ten profiles of legal aid program leaders that show how program-owned evaluation is being used effectively for performance improvement and resource development. These were produced in 2003 under a project jointly sponsored by NLADA and the AARP Foundation and can be obtained by searching the document library at www.nlada.org under "program owned evaluation" or from links in the web site of *The Resource for Great Programs* at www.GreatPrograms.org.

rates have been plummeting, his jawboning has kept IOLTA rates significantly above “market” levels -- for example, Bank of America pays one percent on IOLTA accounts in Virginia but only one-tenth of one percent on comparable non-IOLTA accounts. His efforts have mitigated the need for cuts in IOLTA grants, although this year cuts have become inevitable as conditions in the economy that undermine IOLTA revenues wear on.

Program evaluation has played an important role in Mark’s accomplishments. In the mid-nineties, with attacks on legal aid growing at the federal level, Mark and his board felt it was important for LSCV to be able to show a significant level of oversight at the state level. “We needed to assure state legislators they didn’t have to worry; that we had things under control,” he says, “and we were very concerned that those attacks would trickle down to the state level.” Those fears were confirmed in 1998 and 1999 when the Virginia Farm Bureau lobbied hard in the legislature for far-reaching restrictions.

By then, with technical help from *The Resource for Great Programs*, LSCV had put in place a statewide evaluation system that includes a comprehensive grant application and a standardized annual report from every grantee.

Using the information from this system as the principal source, LSCV publishes a comprehensive annual report to the legislature, which Mark uses extensively in his lobbying efforts. In addition, LSCV reviews the performance of each grantee approximately every three years against state standards based on the ABA’s *Standards for Providers of Civil Legal Services for the Poor*. The evaluation is done in two stages, beginning with a comprehensive desk review, followed by a site visit to the program by Mark and/or a peer review team to discuss issues that LSCV or the program wishes to address.

Rather than create an in-house evaluation bureaucracy, LSCV outsources the technical work to *The Resource*. Outsourcing has enabled LSCV to focus on its core mission with a very small in-house staff. *The Resource* receives the grantee reports, processes the data, conducts desk reviews and assists Mark in producing the annual report to the legislature.

Mark credits the evaluation system for providing strategic information he needs for his work with the legislature and the banks. “In my early days, it was common to get questions like, ‘Don’t you guys sue this agency or that agency? Why should we give you more money to sue us?’ We were always defending ourselves, not getting to the issues we wanted to talk about.

“Now I walk in the door and the talk is about the good work we do, the return on investment. And the ability to show accountability to the legislature helped us to fend off the attempts to restrict the state and IOLTA funding stream.

“If a legislator gets a complaint from a constituent, we can show them our oversight system,” he says. “We can honestly say, ‘We’ve evaluated that program and they’re a good program.’ It makes them comfortable that we’re on top of things.”

Is evaluation an essential capacity for a state civil justice community? “No question,” says Mark. “With all the public money we have responsibility for spending wisely, how could we NOT have an evaluation system?”

“You have to ask, does your legislature have confidence in you? Do they understand the good work you’re doing? We’ve gotten our legislature to the point where they have confidence in us. They WANT to fund us. The only question is, can they find the money? That’s a great place for us to start the conversation.”

Bob Clyde:

Using peer review to promote quality across the Ohio state legal aid system

Like Mark Braley, Bob Clyde has been a major force in lobbying the legislature and working with banks to keep state funding and IOLTA revenues at the highest possible levels through the ebbs and flows of the economic and political environment.

As a legal aid program director in Youngstown in the mid-1980s, he led a small group of people who helped launch Ohio IOLTA and get the first state filing fee bill through the state legislature. In 1990, he was hired to run the two funding programs out of the state public defender's office in Columbus, then became the executive director of the new Ohio Legal Assistance Foundation in 1994 when that entity was created to oversee these state funding streams.

When Bob came on board, IOLTA and filing fees were producing \$3 million annually. Today that figure has grown to \$16 million, a five-fold increase. Joe Tafelsky, the executive director of Advocates for Basic Legal Equality (ABLE) in Northwest Ohio, gives Bob much of the credit for this growth. "Bob has been our key strategist," he says. "He has great skills for analyzing the political landscape, and a strong vision of what legal services should be. We're very lucky to have his leadership."

By 1998, Bob realized that in order to keep this engine going he needed to get a better handle on how the programs were doing. The state assembly had become more conservative, and a no-new-tax attitude now prevailed. "I told the program directors, 'We've raised all this money, but we can't raise much more without showing we are good stewards,'" he says.

The directors agreed that an evaluation system would not only demonstrate accountability but give them valuable feedback as to what was and was not working in their programs.

Peer review was the method of choice. As a former legal aid manager, Bob knew that legal aid directors would be skeptical of any evaluation that did not come from people they respected, people with impeccable credentials.

"I've been there," he says. "My program was evaluated by a team of people from LSC, some of whom had less than three years' experience. They tried to pressure me into making some changes I knew were wrong. I fought them. I told them they didn't know what they were talking about. My board fully supported me."

Right from the beginning, Bob hired peer reviewers of the highest quality. "When you do evaluations, you need to have people whose credentials can't be challenged. These people have been around. They have obvious skills." Because of the quality of the evaluation teams and their work product, the evaluation reports have rarely been challenged.

The first round of peer reviews was powerful as a basis for making state planning decisions. A hallmark of state planning in Ohio has been reconfiguration. "When we started out, we had 19 programs, many of them small, covering one county. There had been no oversight for 15 years. You had the sense that some of them weren't doing anything. The money wasn't being well-used."

The evaluations showed what was working and what wasn't. Ultimately the 19 providers were consolidated into six regional programs.

There are payoffs for the program. "It can be affirming to the staff who are out there in the trenches, having an outsider of high caliber come in and say, 'You're doing a good job.' There's an element of people who

have a vision of where legal services delivery is going nationally coming in and showing people there are more effective ways of doing things. Sometimes you see things that aren't working. You can point them out."

"The peer assessments are making a big difference in what we're doing," says Joe Tafelski, the ABLE program director. "Bob's approach as a funder is to be supportive of our efforts, but also to make us be accountable. Not just for the money but for quality. It's not 'monitoring' in the sense that LSC did it in the 1980s. It's looking at where we're going; our strengths, our weaknesses, how we can improve. Bob is always challenging us to do better. The bottom line is, what does it mean for our clients."

"Evaluation is not cheap," says Bob. Some of the peer reviews have taken a week on site by four to six evaluators. With travel expenses and fees, the cost can go over \$25,000. Is it worth it? "Absolutely," he says. "When you think about how much public money is at stake, the cost of an evaluation is a pittance."

"After years of paper reviews on our part and 15 years of neglect of quality by LSC, we had to do this," Bob says. "We HAD to exercise oversight."

Judy Garlow:

Evaluating from the bottom up rather than the top down

Judy Garlow is executive director of the Legal Services Trust Fund Program, which administers IOLTA and state funding for legal aid in California. She joined the staff in 1985, after serving on the state bar staff involved with group and prepaid legal services, and prior to that as a social worker working on protective services for the elderly in San Diego.

The Trust Fund began evaluating its grantees in 1989. Its principal method is a one-day site visit to each grantee on generally a three-year cycle by a Trust Fund staffer and volunteer from the IOLTA Commission. The grantee is asked to fill out a checklist in advance of the visit that focuses on compliance with grant requirements and the ABA *Standards for Providers of Civil Legal Services for the Poor*. The Fund also does desk reviews of reports submitted annually by each grantee. Together with the site visits, these provide a level of oversight that keeps the Trust Fund informed and the burden on grantees within reasonable bounds.

Judy believes that much of the value of this approach comes from the preparation grantees do for the visits. The biggest impact has been on the smaller programs. "It has brought them into the fold of the statewide system," she says. "It says to them, 'This is not a grant from your community foundation. This comes with strings attached. We expect your board to exercise quality control. Here are standards you can apply. We are going to discuss it when we visit you.' Over the years it has changed the way people run their programs."

In 2002, Judy's program partnered with the Administrative Office of the Courts to develop what is becoming a hallmark for civil justice program evaluation. It was prompted by a legislative mandate to evaluate the results of the Equal Access Fund, a \$10 million annual budget line item that funds more than 200 projects in 100 organizations providing legal aid, state support and court-based self-help assistance.

The scale of the EAF program presented a real challenge in coming up with an approach that would provide a credible result without breaking the bank. With help from *The Resource for Great Programs*³ and a steering committee composed of major stakeholders, the partners put in place a unique system featuring voluntary, "program-owned" evaluations by the grantees. A centerpiece is the "Evaluation Toolkit," seven evaluation

³ The consulting team from *The Resource* was composed of national evaluation consultants Ken Smith, John Scanlon and John Tull.

tools that grantees can apply themselves, including client satisfaction surveys, focus groups and outcome measures.⁴

Judy feels that the “program owned” approach has great promise for other states. She says if she were starting today to develop an evaluation approach she would lean toward some mix of peer reviews and/or program-owned evaluations. “For us, the cost of peer reviews would be overwhelming,” she says. “For a state with a small number of grantees it would be an option. I tell people, ‘Talk to your grantees about what they think would be helpful.’”

Is evaluation essential? “Yes,” she says. “The expectations of funders are very important to grantees. A funder’s recognition of quality and performance can have a powerful impact. And it’s enormously important for programs to find out whether they are having the effect they’re trying to have. Evaluation needs to be on the list of things we do.”

Richard Teitelman

The view from the bench

Rick Teitelman sits on the State Supreme Court in Missouri, giving him a unique perspective on accountability in a state civil justice system. His perspective is further enriched by being executive director of Legal Aid of Eastern Missouri, a program based in St. Louis that under his leadership grew in 15 years into a national-caliber law firm for the poor with a highly diversified \$5 million funding base.

In 1978, he was a legal aid managing attorney in St. Louis when Joel Stein, the consumer managing attorney of the legal aid program in Chicago, paid a visit as a member of an LSC peer review team. “It was a wonderful experience,” Rick recalls. “We talked for half a day. He became a mentor to me. Later I’d go up to Chicago, meet with him. We’d talk about what I was doing, what makes sense, what data we have.”

Later, Lillian Johnson visited the program. At the time, she was a management specialist with LSC but later became a legal aid program director in Arizona and a national icon. It was another encounter with evaluation that gave Rick a window to the outside world.

In the 1980s, LSC evaluations changed. “It wasn’t like the ‘70s, focused on mentoring, on development. It was less developed and supported. We had so many monitoring visits...people with checklists...a total waste of time.”

Since LSC wasn’t doing real evaluation, Rick decided to get it on his own. He recruited a team consisting of a judge, a chief U.S. attorney, a community activist and a client. He told them, “Here are some tools from Bucky Askew (the head of LSC’s evaluations during the ‘70s). Talk to clients, attorneys, bar associations and community groups and then tell me how I’m doing.” It was a fresh, objective look from qualified people who were supportive of legal aid.” It was an early example of “program-owned” evaluation.

“There’s an old saying in the law,” Rick says. “‘If you have the facts, pound the facts. If you have the law, pound the law. If you have neither, pound the table.’ Without evaluation you have nothing, just opinions...people pounding the table.”

Self-evaluation was part of Rick’s passion for learning. “I was always looking at our data. I found we were losing attorneys after two years. It was a huge waste of money. We were always training people, not keeping

⁴ The Toolkit is in the public domain -- see sidebar, “Program Evaluation...” on page ___ for web links.

them. I decided to give them \$2,000 raises at two years, another \$3,000 at five years. Then I put in a pension plan. I wanted people to see legal aid as a long-term career commitment, not a two-year step into something else.” It worked. Today the median experience level of attorneys in the program is 18 years, almost twice the national median.

Is evaluation worth the cost? “In Missouri, legal aid programs spend \$13 million a year. It’s lunacy NOT to spend a fraction of that on evaluation,” Rick says. “The key is to get the right people as evaluators. People like Joel Stein and Lillian Johnson, not just people with checklists. Positive thinkers. People with credibility, who make sense. They can give staff members an understanding of what’s going on nationally.”

Rick sees evaluation as an investment in learning. “If you want to learn tennis, play with people who are better than you are. If you want to learn legal services, bring in the best people in the country.”

Payoffs for the state justice system are substantial. “Enhancing and improving services to clients. That’s the first priority. Then it’s giving everyone the assurance that your system has integrity.

“Funders love accountability. It shows you’re mature. You don’t go in with, ‘The sky is falling.’ People don’t want to fund Chicken Little. They want to invest in success. You show them you’re always learning, always improving. You show them your mission, your vision, good strategy, good execution.”

Conclusion

Each of the four leaders we have profiled is a major force for Equal Justice in his or her state. Each has used program evaluation to find out what’s working and what’s not. Evaluation provides a tool to demonstrate accountability, quality and effectiveness. It plays a crucial role in building a foundation of understanding at the state level that legal aid is a mature system with integrity. That ultimately holds the key to the kind of sustainable growth that every state justice community seeks.

Evaluation is not a luxury that only the largest states can afford. For any institution responsible for the use of public funds it is a cost of doing business. There are standards, well-proven methods and a community of experienced legal aid evaluation consultants that can help. It is a core capacity that every state justice community needs to have.