

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

---

DATE: March 6, 2020

TO: Honorable Members of the Immigrant Affairs,  
Civil Rights, and Equity Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst

Council File No: 17-0046-S2  
Assignment No: 20-03-0249

## Los Angeles Justice Fund

### SUMMARY

On October 3, 2019, the Immigrant Affairs, Civil Rights and Equity Committee (Committee) instructed this Office to: 1) work with partners to identify efficiencies in the Los Angeles Justice Fund (LAJF) including options on how to continue to fund the LAJF; 2) review how other cities disburse funds for legal representation services; and, 3) report on the model implemented by Councilmember Price in which funding was provided to non-profit organizations to provide immigration-related services.

At the direction of the Committee, our Office held several meetings with stakeholders, reviewed legal representation models in other cities, and analyzed quarterly reports to determine whether any changes are needed to improve the program. Below is a summary of key findings for consideration:

### Key Findings

- The LAJF is nearing the end of a two-year period and the Council will need to determine whether City funds will be used for immigration legal representation services beyond June 30, 2020.
- Comments and input provided by stakeholders, which centered around Universal Representation, the local residency requirement, and criminal background checks could improve the LAJF, but the potential financial impact should be considered.
- No program changes are recommended at this time.
- LAJF partners have each committed \$1 million for the Phase II of the program.

On June 27, 2017, the City contributed \$2 million to the LAJF over a two-year period that added philanthropic and Los Angeles County (County) contributions, for a combined total of \$7.9 million (C.F. 17-0046). The City funds have been fully allocated and are expected to be expended by June 30, 2020. The LAJF funds were used to provide legal services to over 500 cases that were accepted for legal representation. Of those, approximately 438 cases remain open and are receiving legal representation services. Of the 517 cases accepted for representation, 248 were funded by the City. The 248 City-funded cases that remain open have received due process and legal representation.

While the intent of the LAJF is to find resolution for these cases, the outcome cannot be predicted inasmuch as each case is unique with its own set of challenges that can take from a few months to several years to settle. This is due, in part, to the complexity of immigration laws and the constant regulatory, policy, and procedural changes made by the federal agencies involved.

The Discussion Section of this report provides an overview of the LAJF, including budget allocations and expenditures (Section I), a review of potential amendments to the LAJF as recommended by the stakeholders (Section II), and legal representation models (Section III), as requested by the Committee.

### Considerations for Council

At this time, if the Council wishes to continue legal representation services in the future, it is recommended that the Council approve a one-year extension to the current LAJF, request the Mayor to include a \$1 million allocation in the Proposed Fiscal year 2020-21 Budget for this purpose, and instruct the CLA and City Administrative Officer (CAO) to report with a strategic plan for a longer term multi-year funding program. These actions would align with how the County intends to proceed. Alternatively, the Council may consider

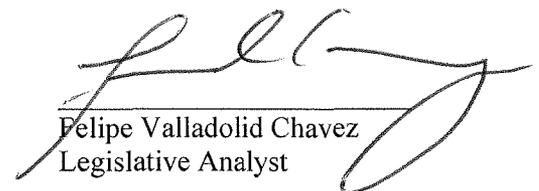
funding non-profit legal representation services through a competitive bid process, should continued funding be available.

Below are actions that the Council may consider if it wishes to continue to provide legal representation services for individuals at risk of deportation beyond June 30, 2020, and subject to available funding:

- 1) Provide a one-year extension of the LAJF from July 1, 2020 to June 30, 2021 and request the Mayor to include \$1 million in the Proposed Fiscal year 2020-21 Budget to continue to provide legal services to existing cases, under current program guidelines.
- 2) If the Council wishes to develop a multi-year program:
  - a. Instruct the CLA and CAO to report with a strategic plan for a longer term multi-year funding program for removal defense. The CLA and CAO will report with a plan that will include a negotiated Memorandum of Understanding with the County of Los Angeles, Department of Consumer and Business Affairs - Office of Immigrant Affairs (County), to better align metrics, reporting requirements, the identification of additional funding contributions to promote the sustainability of the program, and recommendations for a reduced number of legal service providers.
- 3) If the Council wishes to create an independent program:
  - a. Instruct the CLA to work with the City Attorney and CAO to report on the feasibility of creating a Request for Proposals consisting of immigration legal service provider(s) with demonstrated capacity and experience.
- 4) Request the CAO, with the assistance of the California Community Foundation, to report on the impact to open LAJF cases should funding not be available in the future.

**RECOMMENDATION**

Continuation of the City's commitment to the Los Angeles Justice Fund is a policy decision of the City Council. If the City Council wishes to continue the LAJF beyond June 30, 2020, it is recommended that the Council request the Mayor to include a \$1 million allocation for Fiscal Year 2020-21 for a one-year extension of the LAJF from July 1, 2020 through June 30, 2021, to allow grantees to continue to provide legal representation services to existing cases.



Felipe Valladolid Chavez  
Legislative Analyst

## DISCUSSION

In response to the Committee's actions, the CLA met with existing LAJF service providers to solicit input on how the City could improve and create more efficiencies with respect to the LAJF.<sup>1</sup> The CLA also met with representatives from Los Angeles County Department of Consumer and Business Affairs, Office of Immigrant Affairs (County), the California Community Foundation (CCF), the Weingart Foundation (Weingart), the Vera Institute of Justice (Vera), and the Mayor's Office. Similarly, it is recommended that any amendments to the eligibility requirements or program structure of the LAJF be vetted and that staff incorporate such recommendations for Council consideration.

### I. PROGRAM OVERVIEW

The LAJF was established as a partnership between the City, the County, CCF, and the Weingart Foundation, to provide legal representation services to individuals at risk of deportation. As part of this partnership, the City and County created separate guidelines for targeted populations. The City's eligibility requirements are for individuals who are at risk of deportation, are City residents, have no serious criminal violations, and are earning under 200 percent of the federal poverty line. The LAJF was funded as follows: City \$2 million, County \$3 million, and \$2.9 million by CCF and the Weingart Foundation for a total of \$7.9 million.

In 2017, the City and County entered into separate sole source contracts with CCF to make grant funds available to legal service providers selected through a competitive bid process to provide legal representation services to qualifying individuals at risk of deportation. CCF has served as the administrator of the LAJF and also as a funder/partner. The funds provided by the City and County were used for direct legal representation, while philanthropic dollars were used primarily for capacity-building and other support activities.

CCF selected 11 non-profit legal service providers. In addition, CCF partnered with Vera to manage data collection and evaluate the program outcomes. Lastly, CCF engaged various educational institutions for capacity building and other support activities.

In November 2017, CCF allocated funds totaling \$7.4 million to 18 grantees: 11 legal service providers, four capacity building agencies, and three technical support organizations to implement the LAJF. The City's share of the LAJF is restricted to funding direct legal representation including: initial interview/screening, case assessment and development, court preparation, representation at immigration court proceedings, assistance in filing applications for immigration relief, post-release legal services, pro-bono coordination and recruitment, and low-bono representation and referrals.

---

<sup>1</sup> Los Angeles LGBT Center, Kids in Need of Defense, OneJustice, Esperanza Immigrant Rights Project of Catholic Charities of Los Angeles, Immigrant Defenders Law Center, CARECEN, CHIRLA, and Public Counsel.

Tables 1 and 2 below provide a summary of the funding that was allocated to the LAJF by the various partners and how the funds were expended. CCF reports that the \$425,000 balance has been allocated and will be used to close out Phase I by June 30, 2020.

**TABLE 1**

	<b>LAJF Grant Allocation</b>			
	<b>City</b>	<b>County</b>	<b>Philanthropy</b>	<b>Total</b>
Legal Representation	\$2,000,000	\$3,000,000	\$2,900,000	<b>\$7,900,000</b>

**TABLE 2**

	<b>LAJF Grant Expenditures</b>			
	<b>City</b>	<b>County</b>	<b>Philanthropy</b>	<b>Total</b>
Direct Representation	\$1,718,400	\$2,405,000	\$1,381,600	\$5,505,000
Capacity Building			\$1,320,000	\$1,320,000
Data Collection	\$166,600	\$250,000	\$183,400	\$600,000
Program Administration	\$20,000	\$30,000		\$50,000
<b>TOTAL</b>	<b>\$1,905,000</b>	<b>\$2,685,000</b>	<b>\$2,885,000</b>	<b>\$7,475,000</b>
Expended by 6/30/20	\$95,000	\$315,000	\$15,000	\$425,000
<b>Grand Total</b>	<b>\$2,000,000</b>	<b>\$3,000,000</b>	<b>\$2,900,000</b>	<b>\$7,900,000</b>

The LAJF funds were allocated as follows: direct legal representation (\$5.5 million), capacity building activities and expansion of pro bono legal services (\$1.32 million) administrative support (\$650,000) and an unallocated reserve (\$425,000) to address any ongoing or open LAJF cases at the completion of the grant.

As shown on Table 2, the City’s \$2 million commitment was allocated as follows: direct legal representation (\$1,718,400), administrative support (\$186,000), and an unallocated reserve (\$95,000). According to an update by CCF, the City’s funds have been fully allocated.

In its latest quarterly report<sup>2</sup>, Vera indicates that through September 30, 2019, over 1,600 individuals were screened for legal services of which 517 cases were accepted for direct representation. Vera reports that 438 (85 percent) of the cases remain open, 63 cases (12 percent) have been completed, and 16 cases (three percent) have been closed due to attorney withdrawal. More information with regards to the number, type and status of cases will be presented by CCF under separate cover as part of their quarterly report.

On average, the LAJF invests approximately \$15,280<sup>3</sup> per case. In terms of the City-funded cases, the average cost per case is \$8,064. It is noted that the average cost per case will likely increase as 85 percent of the cases remain open.

In order to determine the next steps, our Office met with representatives from the County. In a report dated February 24, 2020, County staff recommended a \$1 million funding allocation to extend the LAJF through June 30, 2021. This funding is proposed to continue to provide services to existing LAJF cases. County staff have proposed that moving forward, they will work with partners to develop an implementation strategy for future funding of the LAJF. The County envisions a model that considers all sources of funds available for legal representation including federal, state and local funds, as well as private funds and philanthropy. Additionally, CCF and the Weingart Foundation have committed \$1 million each for the LAJF for the next phase.

<sup>2</sup> Vera - Year 2 Quarter 3 Quarterly Report

<sup>3</sup> LAJF Funding Total Fund/Number of Cases accepted.

## II. Proposed Stakeholder Eligibility and Program Amendments

The following amendments to eligibility requirements have been recommended by LAJF stakeholders. However, we note that any changes to the program that expand the pool of participants should be considered in the context of funding availability. Expanding the pool of participants may have a direct negative impact on the cases that remain open as less funding would be available. Below is a list of proposed amendments to eligibility requirements.

### 1) Universal Representation

Vera, CCF and the legal service providers have expressed a preference for a legal services model that is based on Universal Representation. Vera indicates that providing publicly funded universal representation for anyone in immigration proceedings who cannot afford a lawyer ensures due process and fairness. Stakeholders recommend the removal of the City's requirement to exclude individuals with certain criminal violations, and to allow more flexibility for the City residency requirement. Vera indicates that a merit-blind model is the most race-equitable service delivery model that demonstrates commitment to all immigrants without identifying those individuals who are more or less deserving.

### 2) Criminal History Exemption

Legal service providers expressed that screening for criminal background takes time and resources that would be better used for actual legal representation. Both the City and County exclude individuals with criminal backgrounds from legal services under the LAJF. This policy is consistent with eligibility requirements under the State's immigrant services program that provides funds for removal defense except for individuals with certain serious criminal violations. Legal service providers attribute the low percentage of cases opened (33 percent) to the strict City and County eligibility requirements.

### 3) Local Residency Requirement

Legal service providers have found the residency requirement to be burdensome. Vera and legal service providers report that clients often do not have access to documents given their isolation in detention. By the time proper documentation is gathered, should any exist, their cases may have progressed too far for legal service providers to have a meaningful impact.

Similarly, Vera reports that a deportation defense program has the most impact when it focuses on those most at risk of removal, and when attorneys can represent all clients in need, regardless of the presumed merits of their case or residency in a particular jurisdiction. Vera further indicates that if the City residency requirement must be retained, the City's program should expand qualifying criteria to include people with "ties" to the jurisdiction and accept a verbal attestation or residency in lieu of documentary evidence. Vera has expressed that this program design would have immediate, positive impact on efficiency, as attorneys would be able to begin work on cases without waiting for further documentation.

The following list of proposed amendments to the LAJF should be considered as part of a future program model.

### 4) Program Structure (Smaller Number of Legal Service Providers)

Vera and CCF recommend that Phase II of LAJF should include a smaller number of organizations selected through a competitive bid process. These organizations should be immigration generalists, staffed with the expertise to handle a wide variety of case types. Concentrating resources with a smaller number of organizations will help ensure each organization is able to hire and support a full practice team and maximize the benefits. This consolidation among a smaller number of organizations ensure a continuity of representation, allowing the same organization to perform the initial legal screening and to ultimately represent

the client. The core group of organizations should have the ability, when necessary, to refer cases to other nonprofit organizations when specialized expertise is needed.

5) Policy Shift to Adults in Detention

Vera proposes a policy shift that focuses funding on detained individuals rather than any individual who has a removal order, but is not in detention. Vera indicates that it is challenging to find counsel for people in detention due, in part, to the distance of the Adelanto Detention Center from any of the legal service providers.

Vera also recommends a policy shift that focuses on adults in detention. According to Vera, all children in detention under the Office of Refugee Resettlement Program (ORR) receive access to legal services through Vera's Unaccompanied Children Program (UCP). If children's cases are expected to be resolved while in custody, they receive representation. Vera's UCP funding provides representation for all children who are detained locally and then released locally. Vera's network of legal service providers facilitates referrals for other released children who were detained elsewhere in the country and are reunified in Los Angeles. However, according to Vera, federal funds are not able to be used for this purpose. Released children who have been screened by Vera's network are referred to other organizations that may have capacity to take these cases. According to Vera, some organizations receive funding from the California Department of Social Services (CDSS) through *OneCalifornia*<sup>4</sup> to provide direct representation to children. The CDSS also provides funding for legal representation to unaccompanied children released by ORR.

While other funding sources may be available for unaccompanied minors, alternative funding sources are also available for the adult population. Providing legal assistance to those most vulnerable (children) has been a priority for the Council. However, a future LAJF model should take into account all funding sources including federal, state, local, private and philanthropic to ensure that funds are maximized. This policy change is not recommended at this time.

6) City and County Alignment

Currently, legal service providers must screen potential clients pursuant to different requirements established by the City and County. This also applies to how each government entity requested the reporting and billing requirements. Vera reports that because program oversight, reporting, and programmatic technical assistance are being coordinated by separate entities, it is challenging to ensure adequate follow-up on data entry issues or programmatic challenges evidenced by the data or emerging technical assistance processes. Streamlining program management to consolidate these functions in a single program management organization could yield greater efficiencies.

These issues may be addressed by requesting that the City and County work together on an Memorandum of Understanding that better aligns desired metrics and reporting requirements. The City and County may also jointly consider issuing a separate RFP for the evaluation of the program, which is currently managed by Vera.

7) Multi-Year Funding Structure

Vera indicates that legal service programs with the most success are those in which funding is secured over a multi-year period and where there is room to grow incrementally. Vera proposes the following recommendations: 1) A multi-year funding structure that allows organizations to hire staff and build caseloads over time and ensures that there are no gaps in legal services, 2) Five-year funding plan for LAJF that would gradually scale up, and 3) the continuation the

---

<sup>4</sup> OneCalifornia provides \$60,000,000 in State grant funds for immigration services, including legal representation.

current model of funding legal teams that carry caseloads rather than reimbursing providers on a per-case basis.

### III. Legal Representation Models – Other Programs

At the request of the Committee, our Office reviewed immigration legal representation models in other cities, including the possibility of issuing direct allocation of resources to organizations with the desired expertise. These models include programs implemented by San Francisco, Alameda County, Long Beach and Santa Ana. These jurisdictions provide public funding, in some cases through a combination of public and private funds, for legal representation services. In addition, the State of California provides over \$60 million in funding annually for legal representation and other immigration services for adults and unaccompanied minors at risk of deportation through *OneCalifornia*.

#### 1. San Francisco

The San Francisco Public Defenders Office operates a program for legal representation for individuals at risk of deportation. The program is 100 percent publicly funded and operates under a Universal Representation model. The program has eight attorneys and five staff funded through the City and County.

The San Francisco Immigration Legal Defense Collaborative represents adults, families, and children who are facing removal proceedings. Individuals must reside in San Francisco or be detained within the jurisdiction of the San Francisco Court. The program provides funding for five fiscal years to community organizations. Over the last five years, local organizations have received over \$15 million to provide legal services as part of this collaborative.

#### 2. Alameda County

The County of Alameda directly funds the Alameda County Public Defender, which takes cases on a merit blind basis. The only requirement is that there is at least some tie to Alameda County. The City of Oakland and private sources fund the Alameda County Immigration Legal and Education Partnership. This partnership is comprised of multiple organizations providing various services to immigrants. Through this program, Central Legal de La Raza uses funds from the City of Oakland to provide representation to detained immigrants on a Universal Representation model as long as the person has ties to Alameda County and is within 200 percent of the federal poverty line.

#### 3. City of Los Angeles Immigrant Services Program – Direct Allocation to Providers

On March 3, 2017, the Council adopted Motion (Price-Martinez-Cedillo), which allocated \$1,025,000 in AB 1290 Funds for community immigration services to the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) \$500,000, Central American Resource Center (CARECEN) \$500,000, and Black Alliance for Just Immigration (\$25,000). In a report dated June 30, 2018, CHIRLA reports that the immigration services included:

- Deferred Action for Childhood Arrivals (DACA): applications, renewals and waivers.
- U.S. Naturalization Applications.
- Consultations.
- Other Immigration Relief Applications.

CHIRLA also reports that they held workshops and conducted presentations at various community events to outreach to the desired community.

CARECEN reports that approximately 1,000 individuals were provided legal services between March 2017 and June 2018. The services provided by CARECEN included legal consultations, DACA, naturalization and other immigration-related services.

4. State of California – Department of Social Services

With the enactment of SB 6 (Hueso), the State Department of Social Services was required to contract with qualified organizations to provide legal services, including removal defense to individuals who are not otherwise entitled to legal representation under an existing local, state or federal program. The department was authorized to award funds to legal service providers that prioritize detained individuals in removal proceedings. For Fiscal Year 2019-20, State assistance for unaccompanied undocumented minors was \$2.9 million. Funding for immigration services, including removal defense, was \$60.7 million.

Some of the local organizations that received funds through this program include Catholic Charities of Los Angeles (\$3 million), Central American Resource Center (\$2.5 million), and the Coalition for Humane Rights of Los Angeles (\$3.3 million) for a combined total of \$8.8 million in FY 2018-19 for removal defense. Other local organizations received smaller funding amounts.

State law authorizes the department to prioritize the award of contracts to qualified non-profit legal service organizations that also receive county or city funding for removal defense.

5. Santa Ana Deportation Defense Fund

In 2019, the City of Santa Ana committed \$200,000 in one-time public funds to its legal defense fund to provide legal representation to detained immigrants facing the threat of deportation. The funding was made available for representation for removal defense provided under the Universal Representation model, with a priority for serving those who are detained. To be eligible for representation under this program, an individual must:

- Earn 200 percent or less of the federal poverty line.
- Be unrepresented by counsel.
- Be a resident of Santa Ana immediately prior to detention by ICE.

The selected organization was required to provide representation at all stages of immigration court proceedings, including master calendar hearings, bond proceedings, competency hearings, merit hearings, state courts, USCIS applications and proceedings, and Bureau of Immigration Appeals. Representation under this model is offered to as many clients as the funding allows and who meet the requirements without a preliminary assessment of the merits of the case. The expectation by the City of Santa Ana is that representation initiated under this funding must be continued through the disposition of the case, including those cases that will be completed after the contract period.