

CHAPTER FIVE

5

Case Management Systems:
Promoting Effective, Efficient Service Delivery

How does—or will—your immigration program deliver services to clients? How do you set up intake? How do you select cases for representation? How do you collect fees? What systems does your office have in place to ensure that your staff are working effectively and efficiently, and avoiding malpractice and liability? How do you track deadlines and cases?

This chapter will explore these issues in depth. The chapter opens with an exploration of the many facets of case management systems, from a potential client's first approach to the agency to the moment the agency disposes of the closed case file. It delves into every aspect of the agency's handling of a case, offering concrete suggestions and models for everything from intake to fee collection to file organization and maintenance.

The chapter is filled with details. It recommends developing policies and procedures for what may seem like minutiae. You may wonder how—and why—you should find the time to develop and implement all these policies and procedures. There are two vital reasons: they allow your program to run more professionally and efficiently, and they protect the agency and its clients.

Time you spend developing strong case management procedures is time you will get back a thousand-fold over the life of your immigration program. The less time the immigration staff at your agency need to spend on each individual case figuring out how to open a case file, what to put into case notes, how to organize the case file, the more time the staff can spend helping clients with their immigration legal matters. The better organized your immigration program is, the more clients you can serve, and the more income you generate. The more your program follows clear case management guidelines, the less likely you are to commit malpractice, and the less likely your clients and your agency are to suffer the consequences of malpractice.

Some case management elements are non-negotiable; no program should operate without them. Others are beneficial but non-essential. The chapter will make clear which elements are necessary, and which are extremely useful but not required. In many instances there are multiple ways to set up case management procedures; we will present several models. Additional consideration should be paid to human trafficking cases and victims of violent crimes. The first attachment at the end of the chapter, a brief article by Gail Pendleton, pertains to these topics (**see attached, page 85**).

Why Case Management is Essential

A strong case management system is key to a healthy immigration legal program. A strong case management system helps ensure consistency, uniformity, and a high quality of work. It allows a manager to more easily manage a program, staff to work more efficiently and effectively, ensures better service to clients, and helps protect the agency from malpractice and liability.

Program managers should give the highest priority to developing an effective case management system at the earliest possible moment in the life of a program. If your program has been functioning for months or years without a case management system, don't despair—it is never too late to implement one.

A case management system balances the interests of the client in getting the best and speediest representation; and the agency in providing services efficiently. It should include standard procedures and policies that govern how your program handles cases, from the moment a potential client contacts the agency for help, to closing of files. Components of a case management system include intake procedures, case opening criteria and procedures, retainer agreements, a tickler system that ensures the

agency doesn't miss client deadlines, case file organization standards, case notes standards, a filing system, and case closing procedures. A strong case management program also serves to or assure representation in compliance with legal ethics rules.

A program that provides legal representation must abide by legal ethics rules. Any attorney is required to abide by her state's ethics rules for attorneys; while accredited representatives are probably not bound by the same rules, the best practice is to assume that they are and act accordingly. By doing so, you assure your clients of the best quality services, and you best protect your agency from liability.

Benefits of a Case Management System

High-Quality Service

- Clients get high quality service;
- When staff leave the agency, other employees can seamlessly take over their cases; and
- Clients participate better in their own representation: they have clear understanding of what to expect from agency and what agency expects of them, and trust that agency is working zealously on their cases.

High Staff Satisfaction

- Clear procedures allow staff to concentrate on doing quality legal work; and
- Staff frustration and burn-out much less likely.

Financially Healthy Program

- Agency is financially healthy because it timely collects all owed fees;
- Efficient case handling and careful case selection criteria contribute to agency financial health; and
- Much easier to gather data to report to funders.

Perils of NOT Having a Case Management System

Lower-Quality Service

- Staff member leaves agency, and agency can't figure out what was filed, when it was filed, what happened on her or his cases;
- Agency far more likely to perform substandard work; and
- Fewer clients seen because staff not working efficiently.

Frustrated, Burned-Out Staff

- Staff more likely to experience stress and burn-out and even quit; and
- Departure of burned-out staff creates inefficiency as agency will have to hire and intensively train replacement staff.

Agency Liability

- Agency far more likely to commit malpractice and face legal liability; and
- Agency more likely to lose track of important dates; lose client documents.

Poor Financial Health

- Agency loses money because fee collection is haphazard; and
- Misappropriation and mishandling of fees more possible and more likely.

Developing and Implementing Case Management Procedures

Involve Staff in Creation of Case Management Procedures

It is an excellent idea to involve staff in the development of your office's case management procedures and policies. Staff may have useful ideas about case management procedures. Staff involvement in developing procedures can also have a positive impact on staff buy-in to the office's case management procedures.

Create a Policy Manual

A case management system is worthwhile only to the extent your staff follow it. The first step in ensuring that this happens is compiling your procedures in writing. Written procedures give your staff clear

Challenges in Implementing a Case Management System

A small immigration office at a social services/refugee resettlement agency had the following experience:

“GoodPeople Immigration Services” (not its real name) had been operating for five years. They had a staff of dedicated accredited reps and interns. They did family-based immigration, naturalization, VAWA. They had so many cases and so many clients that they never had time to come up with a case management system—with clients lining up out the door, who had time to make up complicated systems? They collected fees from some clients, they had no technical review—but so far no one had sued them so they figured it was OK.

Then GoodPeople hired “Gordana” (not her real name) as a new immigration worker. Gordana had been a paralegal at a law firm for several years, and she worried about the lack of case management. She also felt the program could be bringing in a lot more money. She attended a program management training for nonprofit immigration legal programs; as soon as she got back from the training she wrote her program director a memo about why their program needed better case management, and why he had to attend the training. He attended the same training and came back convinced; he gave Gordana the green light to set up program management systems.

Gordana overhauled the program's fee collection process, insisting that all clients pay a consultation fee before seeing a counselor; the receptionist would collect the fees. Staff would only open cases when clients brought in the full fee. For clients who were unable to pay, Gordana set up a fee waiver policy with clear guidelines. She set up intake forms, case file protocols, and a new filing system. Gordana worked with the other legal staff and got their input as she developed her systems; this helped in getting the staff to buy in. She also instituted a quarterly peer file review process by which the immigration staff would review randomly chosen files from other staff and check that required processes were followed. By involving the staff in some of the case management system decisions, getting the strong support of her director, and communicating the new policies in writing and at regular meetings, Gordana has succeeded in bringing the new policies to life, with excellent results.

GoodPeople now sees more clients than it did before; collects three times more money in fee income; and has been able to secure more state and private funding. The staff are happier and less stressed. Because its main office runs so well and it is generating more income, GoodPeople is expanding its capacity by opening satellite offices in underserved rural areas.

guidelines. They facilitate the training process for new staff. Written procedures also help with staff supervision by giving supervisors standardized criteria by which to evaluate staff work.

Communicate Policies to Staff on Ongoing Basis

Writing procedures down is only the first step. It is vital that the program manager communicate these procedures clearly to staff. When new staff start, you may decide that the program manager will go over all the procedures with them. If you are instituting case management policies after years of not having any, you will need to figure out how to get your staff to accept and follow the new policies, which may be different from the way they have been accustomed to operating. This may mean a staff meeting or series of meetings to go over the new procedures; meetings with individual staff on a one-time or ongoing basis. However you decide to implement the policies, they will remain mere words on a page unless you take steps to bring them to life and keep them alive.

The immigration services program manager must ensure that staff not only learn about, but adhere to, program policies. The program manager will need to make sure that staff are in fact following program guidelines; Chapter Two, Staffing, discusses different ways this may be done.

Legal Ethics and Case Management Policies

Practicing law subjects the practitioner and the agency to certain ethical requirements. Attorneys are bound by the ethics rules of the states in which they practice; attorneys who violate these rules may be sanctioned and even banned from practice. Accredited representatives, who are allowed to function just like attorneys before U.S. Citizenship and Immigration Service (USCIS), the Immigration Court and Board of Immigration Appeals (BIA) should assume that attorney ethics rules apply to them as well. (Note that partially accredited reps can function like attorneys before USCIS, while fully accredited reps may also function like attorneys before the Immigration Court and BIA.) Malpractice by attorneys and accredited reps can lead not only to removal from practice, but monetary liability.

The ethics rules that most directly impact case management are the duty to the client of confidentiality; the duty of competence; and the prohibitions against representing clients whose interests conflict. Throughout this chapter, we will explain how these duties must inform case management decisions.

Note that every state has its own attorney ethics rules. Your state bar's website should contain a link to your state's ethics rules. Each state bar also has an Ethics Committee that can give advice about legal ethics matters in that state. It is a very good idea to familiarize yourself with your own state's particular ethics rules.

ELEMENTS OF CASE MANAGEMENT

Intake

Programs should establish clear and consistent client intake procedures. Intake procedures may vary from program to program; the key is to be clear and consistent, and to create a procedure that best meets the needs and realities of your own program.

There are two basic approaches to conducting intake: 1) the appointment-only model; and 2) the walk-in model. Some programs use one model exclusively, while others use both. "Appointment-only" means that potential clients must make appointments for intake. Potential clients who appear at the agency without an appointment will not be seen. A walk-in system, on the other hand, allows potential clients to appear without appointments. Agencies that use this model generally set aside certain times every week for walk-in intake.

Some of the pros and cons of each model:

Appointment Model	
Advantages	Disadvantages
· Very convenient for clients	· High no-show rates may impact on budget
· No need for large waiting room	· Need to have someone maintain and monitor appointment calendar
· Staff maintain control over their time	· Appointment calendar may fill up far into the future
· Less stressful for staff	· Fewer clients are helped because fewer consultations are done
· Less confidential interview space needed because fewer potential clients seen at once	

Walk-in Model	
Advantages	Disadvantages
· Clients not bound to come to any particular intake session	· Need for larger waiting area
· No staff time spent scheduling and canceling appointments	· Need for more confidential interview space
· Program gets wider experience due to higher volume of possible clients	· Clients have to wait to be seen
· More immigrants helped	· Hard to predict day-to-day volume and demand
· Greater visibility for program in community	· Usually more work to juggle
· Access to greater number of immigrants	· Safety and security issues because of large volume of people waiting

Appointment Model

If your agency decides to handle some or all of your intake via individual client appointments, you will need to decide who sets up appointments and how. There are many ways to do this, just as there are many types of immigration programs.

Small programs with one immigration legal worker have little choice: the immigration staff person sets up her or his own appointments. Programs with more than one immigration staff member will need to work out who sets up appointments. Programs lucky enough to have support staff may decide to have support staff set up intake appointments.

No matter who sets up intake appointments at your agency, it is crucial that you have a policy for what kinds of questions the person setting up appointments asks. This may vary depending on the level of

immigration expertise of the person who sets up appointments. An agency in which experienced staff set up appointments may be able to ascertain over the phone that the agency cannot help a particular caller, and refer her or him elsewhere. An agency in which support staff with little immigration experience set up appointments may not be able to screen callers as well over the phone. The less immigration knowledge the person who sets appointments has, the more important it is to develop clear protocols for what to ask callers. It is also important that staff not waste time answering lengthy immigration questions on the phone for non-clients.

Why and How We Implemented an Appointment-Only Policy

One agency writes that:

“When we first started our immigration program, which now has two accredited representatives, we wanted to bend over backward for our clients and we saw people as they came in. But then clients developed an expectation that they would be seen right away, and it got chaotic and overwhelming. We even had potential clients walking down the hall and opening closed office doors to look for someone to help them that minute! We used to laugh about camouflaging ourselves when we left the building because clients would lie in wait for us and try to “grab us” as we walked through the parking lot to ask the proverbial “one question”!. Once a couple of clients recognized my car and were waiting there when I was leaving at night in order to ask their one question. Another night one particularly determined person hung out in the lobby waiting for me to appear for so long that my colleague left the building, got into my car and drove it to the back door where I snuck out and she snuck back in. This wasn’t a dangerous stalker but somebody who refused to believe he’d have to make an appointment.

He was still sitting there when the janitor went to lock up the building about an hour after I’d left.

After two years of these conflicted feelings about whether or not to require appointments, we realized we had to change. It was difficult to decide because we were trying to do the touchy-feely church-thing and help people in a non-bureaucratic way. However, then we saw that helping people whenever they showed up was not letting us get our work done; it wasn’t fair to other clients and it was highly stressful for staff. We decided that we would see clients by appointment only.

We also changed our physical space. We arranged for our program’s waiting room to be moved to the central lobby area instead of crowding waiting immigration clients into a small alcove outside our offices; this was also important because we didn’t want waiting clients to overhear confidential conversations occurring just a few feet away. The move to the central lobby was a huge help. Another problem with our space is that we have our copier in the hallway. Workers walked through our small waiting alcove to make copies, usually multiple copies which took some time. People wandering in without appointments would walk up to an immigration counselor at the copier and begin to ask their “one question.” We scrambled to cover up the papers we were copying and it wasn’t long before it wasn’t a tenable situation at all. The central lobby waiting area is a vast improvement and it was hard to change people’s habits, but finally today we rarely have people walking in expecting to be seen right away.”

--Director, small immigration office in a larger social services agency

Smaller Agency: Designated Intake Times

“The office holds open intake Tuesday and Thursday from 9 am - 7 pm; we also have a separate site that conducts intake from 1 - 4 pm every Monday. All intake is done on a first- come, first-served basis. There is always a pretty steady stream, but it can get chaotic. Potential clients are seen the day they come, but there can be a long wait, and it can take a couple of weeks to get a follow-up appointment.

We settled on this system because we found that with an appointment-based intake system a lot of people don’t show up. The downside of our open intake system is, for example, when someone is traveling a long distance and the attorney is sick. But it does save aggravations with clients showing up late.”

– Angie Plummer, Community Refugee and Immigration Services, Columbus, OH

Walk-in Model

Programs may allow walk-in intakes either at any time or only on designated days and times. Walk-in intake at any time is most feasible in a large agency with a large pool of staff members who might be available at any point to do intake. Agencies with smaller staffs may want to use appointments or to designate specific intake times; as the story above demonstrates, allowing clients and potential clients to walk in any time can be overwhelming and chaotic.

Agencies that use the walk-in model exclusively will also need protocols for what to tell prospective clients when they call for immigration help. Generally, prospective clients should be instructed to bring along as much relevant paperwork about their case as they can, including all immigration applications previously filed, and all correspondence they have received from Department of Homeland Security (DHS), Department of State (DOS), and/or Executive Office for Immigration Review (EOIR). Some agencies have had great success with requiring prospective clients to bring everything needed to prepare an application to the appointment. If anything—USCIS fee, agency fee, necessary documents—is missing, the agency will not open a case, and will re-schedule the prospective client.

Large Agency: Walk-in Intake at Any Time

“Intake occurs each day Monday through Friday in four hour intervals, from 9am to 1pm and 1pm to 5pm.

The receptionist instructs potential clients to sign in when they arrive. They then wait for a meeting with an intake worker who collects biographical information and creates a physical or electronic/database file. The intake workers see potential clients based on order of arrival and language availability. Potential clients are then scheduled for an intake or consultation appointment with an attorney or accredited representative, depending on the type of case.

For simple services, the client is referred directly to a paralegal or accredited representative who can provide the service on the spot. The client does not have a separate appointment to consult with an attorney or accredited representative. Such services include renewal of a work permit, parole request, replacement residency card, etc.

For more complex matters, potential clients are scheduled for appointments based on staff availability. Potential clients pay a consultation fee when the appointment is scheduled. Depending on the demands of the office the client could receive a legal consultation the same day or within a couple of weeks.

At the time of the appointment, the potential client meets with the attorney or representative in his or her office. The worker talks with the potential client to determine if any legal relief may be available to her. The worker also inquires into the potential client's immigration history, and reviews and copies any relevant documents she may have. Depending upon the legal issues involved, the worker's expertise, and the preferences of the worker's supervisor, a case acceptance decision may be made on the spot, or after consulting with the supervisor. If a case is accepted, the worker explains to the client what fees associated with the case work, if any. The legal representation to be provided is also explained to the client and he signs a retainer. The client's information is updated in the database and any court or filing deadlines are recorded on the master court and filing calendar. If a client's case is not accepted, the client is either told at the consultation or is mailed a letter.”

– Randy McGrorty, Catholic Charities Legal Services, Miami, FL

Paper Intake

A final intake model is paper intake. In this model, the potential client completes the intake form off-site and sends it to the agency, which then determines who to call in for more detailed in-person intake interviews.

“We struggled with balancing the time needed for staff to screen new cases with the time needed for staff to work on accepted cases. We moved away from conducting intake interviews for certain projects. Our office now begins intake in certain of our projects with an application for legal services in three languages. The application instructs potential clients to submit relevant documents. The application can be returned to our office either in person or by mail. Supervisors review the returned applications and make a decision about whether to schedule an intake interview. If the case is rejected, the prospective client receives a reject letter with referrals to other agencies. If an intake interview is scheduled, a staff member conducts the interview and submits a written case summary for supervisory review. Supervisors then hold case review and, often in consultation with staff attorneys, decide which cases to take and make case assignments. Our projects that help victims of violent crime, victims of human trafficking, and unaccompanied children does not use the application for legal services procedure and typically conduct intake interviews of all prospective clients.”

– Rebecca Sharpless, Florida Immigrant Advocacy Center, Miami, FL

There are several advantages to this model. Immigrants don't have to take a day off of work to wait for an appointment. The agency is able to keep intake open at all times, and can make decisions on substantive cases in light of the resources available. However, a barrier to “paper intake” is the literacy levels of potential clients. Note as well that the agency loses possibly important information without personal interaction with the potential client.

Telephonic and Electronic Intake

Program managers should think carefully before attempting to implement a telephonic or electronic intake system. The careful examination of documents and the verification of client candor are critical to assessing an individual's immigration case. Neither of these can be effectively done over the telephone or via the internet. While technology continues to facilitate many aspects of customer services across many industries, initial client intake for immigration legal services is, like a medical examination, important to do in person.

Ethics rules also factor into decisions about telephonic and electronic intake. It is very important to ensure that any immigration advice the program gives is given with a full understanding of a client's individual situation. Again, it is often difficult to make such an assessment over the phone or internet. A program needs to make sure that its advice, even to people it does not ultimately accept as clients, is as accurate and complete as possible.

An additional reason to require that the client's first encounter with a program be in-person is to ensure that clients are properly advised as to their responsibilities throughout the life of their immigration cases. Successful immigration programs communicate to clients from the outset that the clients are entering a representation partnership, and that the program can only work effectively with the complete cooperation and candor of the client.

Intake Staffing Choices

Agencies with larger staffs will have to decide which staff to assign to intake, and how. An agency may decide to assign particular staff members to do intake; or may assign intakes based on staff members' areas of expertise. Use of intake forms (discussed below) can help staff pre-screen potential clients to determine which staff member should conduct the intake.

Programs sometimes use less experienced staff, or volunteers, to handle intake. If you decide to do this, you will need to ensure that your intake staff or volunteers are adequately trained to ask about and recognize potential problem areas, and to explore what immigration options might be available to each potential client. Immigration law is complex, and the penalty for missing important issues may be deportation. It is not worth saving some money on intake staffing if you thereby miss important issues like potential immigration benefits, filing deadlines, or bars to filing.

Need for Clear Communication During Intake

Some programs structure their first interaction with clients as a consultation during which the legal worker assesses the immigrant's situation and eligibility for benefits and/or relief. These programs do not begin substantive legal work during the initial meeting. Other programs immediately accept cases and begin work right away; this is especially true of less complex cases.

It is extremely important, no matter how your agency structure intake or consultations, that both your staff and potential clients are clear about what is happening and who has agreed to what. It is crucial that the immigration legal worker communicate clearly to the potential client whether or not the case has been accepted, and what are the next steps that both the agency and potential client must take. Will the agency be calling the immigrant? Should the immigrant contact the agency? Is she a client of the agency yet, or not?

Why is this important? If the agency has not yet committed to taking on a particular client, you want to make sure that person knows that, and does not assume that she is the agency's client. She might then not seek other legal representation, or assume that she doesn't need to worry about deadlines because your agency, with its immigration expertise, has agreed to represent her and is taking care of her case. The agency should be as clear as possible with potential clients about when and if they become clients, to avoid possibly harmful assumptions like this.

It is also extremely important to assure potential clients during intake of the agency's commitment to confidentiality. Potential clients need to understand that they can and should be fully honest with the agency during intake, and beyond.

Intake Forms to Determine Client Eligibility

To facilitate the intake process, programs may develop intake forms and checklists. The more types of immigration services a program provides, the more intake forms may be useful to them. Intake forms tailored to the particular type of benefit the client is seeking minimize the possibility that the legal worker will miss a key eligibility requirement. They help ensure that every intake worker asks each potential client every important question.

In addition to intake forms, many programs also find useful a set of remedy checklists that can be tailored to a particular client's case, and that identify the exact documentation and information the client needs to provide.

Remedy checklists might include:

- Documents the client must provide;
- Money order amounts for USCIS filing fees;
- Other USCIS requirements, such as photos, medical exam; and
- Information on how to proceed once client gathers all items.

To supplement the client document checklists, some programs use a corresponding set of informational handouts that correspond to items on the client checklists. Examples include:

- List of approved local doctors for medical exams;

Why We Don't Use Volunteers for Intake

"An attorney sees all the potential clients for intake and then supervises other staff who may work on a case. We tried having volunteers and interns do intake, but found that to be inefficient because less experienced staff weren't always able to identify key issues."

– Angie Plummer, Community Refugee and Immigration Services, Columbus, OH

- List of addresses of local criminal courts to obtain criminal records;
- List of local police offices to obtain police clearances;
- List of local passport offices; and
- List of local Legal Aid offices for non-immigration legal matters.

Developing such lists based on the information most often requested in your office can save your immigration workers significant time.

Referral Lists

You will encounter people at intake whose cases you cannot accept. The agency should create a referral list to assist people whose cases the agency cannot handle. The list should include more than one service provider, if that is at all possible, and staff should thoroughly research recommended agencies and practitioners to ensure that they are reliable and professional. To avoid the appearance of impropriety, the agency should not recommend any one service provider on the list over another, and should not steer individuals to certain providers.

CASE SELECTION

Criteria for Case Selection

Which cases should you accept for representation? A number of factors go into the decision to accept a case or not. Your agency should have overall guidelines about the kinds of legal issues you will handle, and those you will not. Funding considerations also generally factor into case selection; Chapter Six covers in detail how to maximize fees through case selection. Staff expertise and availability also play a part. Programs should not accept more cases than they can competently handle.

Common factors to take into account:

- Availability of staff
- Expertise of the office
- Needs or special needs of the clients (e.g. children and elderly)
- Whether the office can make a difference in the case outcome
- Conflicts of interest
- Client income: some agencies will not represent clients whose income and or resources exceed a given amount.

The larger the program is, the more important it is to have clear guidelines for staff about what kinds of cases to accept. It is also important to be clear who makes the decision whether or not to accept cases. Some offices leave it up to individual staff to determine how many cases they can handle at once; others have case completion expectations.

It's important to ensure that staff do not accept more cases than they can competently handle. Aside from the possibility of staff burnout and frustration, lackluster and hurried representation can lead to legal malpractice, harming the client and exposing the agency to liability. Nonprofit staff who are eager to help immigrants and make a difference may be tempted to take on more and more clients, but taking more cases than the agency can competently handle does not serve clients well.

Expertise of the Staff

Attorneys are bound by ethics rules to provide competent representation to their clients. They must have

some knowledge of the law governing the cases they take on; they should not accept cases on matters they know little about.

While accredited representatives are not specifically bound by attorney ethics rules, these rules provide extremely useful guidance. To protect the agency, its staff, and its clients, agencies with accredited representatives would be well advised to act as if attorney ethics rules bind them.

Programs should ensure that they do not accept cases that are outside their sphere of knowledge and experience. Certainly immigration legal staff can learn about new areas of immigration law and are not obliged to handle the same kinds of cases forever, but it is crucial to be sure to get enough training and support before delving into new areas.

This is true even if your program is the only nonprofit immigration provider for hundreds of miles. Just because there is no one else around who can take a case does not mean that your agency must accept a case it is not competent to handle. If you do want to take on cases your staff have neither experience nor training on, you will need to make sure that the staff member who accepts the case finds training and/or an experienced mentor to guide her or him. Incompetent representation does not help clients, and could expose the agency to liability.

Conflicts of Interest

Ethics rules prevent attorneys from representing clients whose interests conflict with each other. This is because an attorney owes each client undivided loyalty—an attorney may not put herself or himself in the position of having to choose one client’s interests over the other’s. As this manual has pointed out, best practice for accredited representatives is to behave as if they are also bound by attorney ethics rules.

Before agreeing to accept a potential client’s case, your program should check your client database to ensure as best you can that this person’s interests do not conflict with those of another agency client, including former clients. In your practice, conflicts will likely most frequently arise in family-based petitions. For example, a potential client comes in saying that she has been beaten by her U.S. citizen boyfriend; she has called the police and reported the beatings. You interview her and believe that she may be eligible to apply for a U visa for crime victims who cooperate with law enforcement. A check of your agency’s database, however, reveals that the agency is currently representing her boyfriend, who is sponsoring his parents for permanent residence. Representing the U visa applicant would mean working against the interests of your current client, and so you would not be able to represent her.

Some case management software programs allow you to perform “conflicts checks” on potential new clients. When choosing a case management system, this is an important feature to look for. In the situation above, a simple check of the client database would reveal that the potential new client’s boyfriend had previously been an agency client.

Note that this is a complex topic that this manual cannot cover in detail. When in doubt about a possible conflict of interest, approach an experienced attorney or accredited representative for advice. You may also be able to contact your state’s bar association for guidance.

Client Income

Some programs have client income caps: they will not generally take cases for clients whose incomes are above a certain level. This ensures that the agency’s scarce resources are not being used for clients who could afford private representation. Other programs have no formal income caps.

Turning Down Cases

Nonprofit immigration staff sometimes feel that they are bound to accept all clients who approach the agency. Some potential clients believe this as well. It is not true. A nonprofit does not have to accept any particular case, no matter how deserving the client may be. Even if part of your agency’s mission is to

serve low-income immigrants, you don't have an obligation to any specific non-client, no matter how deserving.

Indeed, as the above sections indicate, there are a number of situations in which an agency *must* decline to take a case. There are conflicts of interest that preclude representation of both parties. An agency should not take on a case it's not competent to handle. An agency may also have its own internal guidelines about what types of cases it accepts.

These are not the only situations in which an agency must or may turn down a case. An agency may be too busy to take on a particular case. A staff member might have a serious personality clash with a potential client that would get in the way of effective representation. Both are legitimate reasons to turn down representation.

It is important that your immigration staff understand the situations in which they must turn down cases, and the situations in which they may turn down cases. It's also important to make it clear to potential clients that the consultation is just that: a consultation to see if the agency will be able to accept a case for representation.

If you do decline representation on a case, make sure to communicate this clearly to the potential client as soon as possible. It is a best practice to put this in writing. Many programs use standard letters to communicate this, and include a list of referrals to other agencies and/or private attorneys with the letter.

At What Point to Open a New Case

You have met with a prospective client and you feel he or she has a good case that meets your case selection criteria. Your agency has three immigration staff and each of you make your own decisions about which cases to accept. At what point do you actually open the case and start work? Do you open the case right away during intake? The client does not have all her documents, and she has not brought all the required filing fees and the agency fee. Do you require her to come back before opening a case for her?

Many programs will not open a case before the client has brought all the required documents for the case, as well as the USCIS filing fees and the agency's fee. This allows programs to avoid a build-up of pending cases that depend on the client returning with missing information or documents. Such a build-up can lead to frustration and even liability; as cases remain pending, laws may change, fees may increase; and the facts in a case may change. It may also waste your staff's time—instead of working on cases, they spend time chasing down clients.

This approach does not work for all types of immigration cases. Generally, the more complex a case is, the less possible it is for a client to walk in the door with all her documents in order. Asylum and VAWA cases, for example, do not lend themselves to this approach.

SCOPE OF REPRESENTATION

What level of representation will you offer to clients? Will you file a G-28 Notice of Entry of Appearance for every application, do follow-up, and represent each client at any USCIS interviews? Will you help the client fill out and file the application, and end your involvement there? Will you simply review applications clients have completed on their own? More complete representation is more beneficial to each individual client, while providing some services on a more limited basis allows your program to serve a greater number of clients. Limited representation may also have ethical implications.

To File or Not to File a G-28

A G-28, or "Notice of Entry of Appearance" is a USCIS form that a representative (either an attorney or accredited representative) and client may sign and send to USCIS with an application; it informs USCIS that the representative is representing the client on a particular matter, and that the client consents to

USCIS's sharing information with the representative relating to that case. Once a G-28 has been filed, USCIS should send the representative a copy of every notice it sends the client. The G-28 also allows the representative to represent the client at interviews, such as adjustment of status and naturalization interviews.

Some providers feel strongly that a representative must file a G-28 on every case and offer full representation, while other programs are comfortable with more limited services. Some programs provide full representation on certain (generally more complex) cases and more limited representation on others (generally the simplest, most straightforward applications). Some take a middle position and file a G-28 to aid in tracking the case, while using the client agreement to limit the scope of their representation. You will need to make a decision about what is right for your program.

When you accept a case for representation, it is very important to let the client know what the scope of your representation will be. Especially if you are offering limited services, you should make sure to inform the client in writing about what you are agreeing to do for her or him. A retainer agreement (discussed below) would be an appropriate vehicle for such information.

It is important to be clear with clients about exactly what services you are agreeing to. If you agree to file an I-130 for a lawful permanent resident petitioning for her husband, are you also going to represent the couple when it comes time to adjust status? Make clear to the clients whether or not this will be part of the representation, or whether they will need to approach the agency again to ask for representation for the adjustment. The American Bar Association has a more detailed discussion of the ethics of limited representation at <http://www.abanet.org/legalservices/sclaid/downloads/civillegalaidstds2007.pdf>.

Filing G-28s on All Cases: Security for Clients

"When our agency began to do group processing for green card applications, we went back and forth about whether or not to file G-28s for our clients. We have quite a small staff, and we thought the paperwork and follow-up would be overwhelming. Initially we decided against it, but it became clear within a month that we should reconsider. Sometimes USCIS sent receipt notices to the wrong address, and sometimes the client wouldn't get a receipt notice at all. We decided to start filing G-28s with each application. The extra administrative work is indeed overwhelming, but we feel that filing them provides security that our clients deserve. In order to manage the additional work we now use interns to file papers and maintain case files."

– Rachele King, Minnesota Council of Churches Refugee Services, Minneapolis, MN

G-28s for Complicated Cases Only

"We don't file G-28 on all cases. We only file G-28s in complicated cases. In simple cases, such as uncomplicated adjustments of status and naturalization, it's up to the attorney's discretion whether or not to do G-28. This is also true on Freedom of Information Act (FOIA) requests, applications for employment authorization, and applications for Temporary Protected Status. Our attorneys use our representation agreement in a serious and deliberate manner—they make sure to write clearly in the agreement what the scope of the service is: representation at interview or no, etc.

We don't want to always file G-28s because sometimes clients don't keep us informed of their whereabouts. When we get their biometric notices in, then it becomes a pain to try to locate them and inform them of the appointments. So, in clean, simple cases we let the clients take care of themselves. In complicated cases, where we can expect a Request for Evidence, or we think there may be problems at the interview, we file a G-28 so we can stay informed and involved."

--Panavee Vongjaroenrat, Justice for Our Neighbors

No G-28s: Promoting Client Responsibility

“We handle about 2,973 cases per year. It would be overwhelming for us to file G-28s on these cases, because then we would have to track everything (receipt, approval notices, send them to the clients, etc., etc). By making clients track the progress of their own cases, we are teaching them to be responsible. As part of the retainer that they sign, they are required to fax or mail us whatever they receive from USCIS so that we can keep a copy of it in the file. This is how we keep abreast of the progress of their cases.

We file G-28s only in complicated cases, such as cases that involve motions to reopen, or if we think that something (a prior unlawful entry, status violation, complicated affidavit of support) might be misunderstood by the immigration officer, we tell the clients that they might benefit from representation during their USCIS interview. If the client agrees that it would be better to have representation at the interview, they pay more, and we file a G-28.”

– Nancy Gavilanes, Catholic Charities of Chicago Immigration Services, Chicago, IL

Generally if you file a G-28 on a case, you should be doing follow-up work on the case. If USCIS sends a Request for Evidence, you would notify the client and work with the client to respond. If the case is taking an unusually long time to be processed, you will need to do additional advocacy to follow up on the delay.

Representation at Interviews

Many of the applications your agency will help your clients file will require that the client(s) attend an interview at the local USCIS office. Many family-based adjustment applicants are interviewed, for instance, as are all naturalization applicants. You will need to decide when and in which cases your agency’s representation will include representation of the client at the USCIS interview.

Because of limited resources many agencies do not represent all clients at all interviews. Some programs offer no interview representation at all; this is especially true in small programs that are located far from a USCIS office. Some programs offer interview representation on a case-by-case basis, targeting cases in which they think there are likely to be issues and on which representation could make a real difference. Others offer interview representation to clients who are willing to pay extra for it.

If you choose not to represent all your clients at their USCIS interviews, you can still make a big difference by preparing clients for their interviews. Making sure the client has all her paperwork in order, discussing with her what is likely to happen at the interview and the kinds of questions she will be asked, and even role-playing a bit can be very helpful to clients. It is also a good idea to let clients know exactly who their adjudicator will be (in the case of USCIS interviews, the adjudicators are not judges, and are usually not lawyers); what the setting of the interview will be (the adjudicator’s office); who will be present for the interview; and what the USCIS office set-up is like. It is also important to remind clients to write down the name of their adjudicator, so that if any follow-up is needed, you and/or the client will know who to contact.

Whether or not you choose to represent clients at USCIS interviews, you need to make clear to clients from the outset of the representation what your role is going to be. Will you provide representation at the interview? Will you not provide representation at the interview? May the client and agency decide over the course of the case whether or not the agency will represent the client at the interview? It is very important that both the client and the agency share the same understanding and expectations about whether or not representation at the interview will occur.

File Review Representation

Another form of limited representation is file review. Clients prepare their own applications and bring them to the agency for a staff member to review. The client pays a lower fee than the agency’s usual fee for

this service. This service works well for clients the agency has already helped—for instance, if your agency has represented an immigrant in her adjustment application, and she is now ready to naturalize.

Catholic Social Services (CSS) of Atlanta, for example, does file review representation. They report that generally clients they've previously represented, or well-educated clients, often young adults who've recently graduated from college use this service. CSS Atlanta has their clients sign a disclaimer explaining that CSS is not representing them, only reviewing their forms. The service works well for both the agency and the clients: the clients save money on the regular fee, but have the peace of mind of having an immigration legal worker review the application. The agency makes money, and feels that it's carrying out its mission by empowering its clients.

RETAINER AGREEMENTS (also known as CLIENT AGREEMENTS)

Immigration legal programs should have every client sign a written agreement that spells out exactly what the agency agrees to do for a particular client, and makes clear what the responsibilities of both the agency and the client are with regard to the legal services. This is generally referred to as a “retainer agreement.” A retainer agreement can educate clients about their rights and responsibilities vis-à-vis the agency; build trust between the client and the agency; and limit the agency's liability. Having—and using—a retainer agreement is essential.

Many of your clients will never have hired a legal representative before, in the United States or anywhere else, and may not understand how the representative/client relationship works. The retainer agreement is an important way to inform your clients about how that relationship works and to build trust with your clients. A client who fully understands what is expected of her, and what she can expect of you will be more relaxed and more able to focus on and participate in resolving the substantive issues in her case.

The retainer should spell out exactly which services the agency is agreeing to provide. This is beneficial to both agency and client. The client is informed about exactly what the agency will be doing for her, and the agency has a record of which services it has agreed to provide. Both the client and the accredited representative (or attorney) assigned to the case should sign each new retainer agreement.

The retainer should be written in clear, simple English, with as little “legalese” as possible. ***The retainer should include as complete a description as possible of the services the agency agrees to provide for the client.*** Beyond that, many retainers include information about the agency's responsibilities to the client, such as:

- The agency's commitment to confidentiality;
- The agency will use its best efforts to ensure the success of the client's case;
- The agency cannot guarantee a particular result in any case;
- The agency will keep the client reasonably informed of the progress of the client's case;
- The agency will respond to reasonable requests for information about the progress of the client's case; and
- The agency will consult with the client about all important case decisions.

A retainer may also detail the client's responsibilities, such as:

- The client must authorize the agency to represent her or him;
- The client must be truthful with the agency;

- The client must promptly inform the agency of changes of address and/or telephone number;
- The client must appear for all scheduled meetings at the agency, or else inform the agency beforehand of the need to change the meeting time; and
- The agency may also want to note that the client **MUST** appear for all scheduled interviews, appointments, and hearings with USCIS or EOIR, whether or not an agency representative accompanies her. The consequences to the client of failure to appear can be so high (e.g., an order of deportation) that your agency may decide to remind clients of this in the written retainer agreement.

A retainer may also include:

- The terms of termination of the agreement. The client has the right to terminate the representation at any time for any reason, but the agency may only terminate the agreement under very specific circumstances (e.g., if the client is untruthful with the agency about a significant issue in her or his case);
- The fee that the client and agency have agreed upon;
- Some agencies may also choose to include the payment plan, if there is one.

See attached “Client Service Agreement” (English and Spanish) on pages 89-95.

The agency may ask the client to sign a new retainer agreement every time the agency agrees to provide a new service for a client. Both the client and the representative assigned to the case should read over and sign the retainer. The agency should keep one signed copy for its records (preferably in a designated section of the client’s case file) and give one copy to the client.

Some representatives choose to read the retainer agreement out loud with each new client. A client may not read the agreement to himself if you hand it to her or him. Read the agreement out loud point-by-point, and explain anything that might not be clear to the client. You might want to explain to the client why each particular point is included in the retainer agreement. Give the client time to ask questions, and make it clear to the client that you understand that he or she may never have seen an agreement like this before, and that it is perfectly normal to have questions about it. If your client does not speak English, do your best to read the retainer out loud with the client through an able interpreter. Many programs provide printed client agreements in multiple languages; it is still valuable, however, to read the agreement out loud with your clients.

The retainer agreement can serve to remind clients that the agreement is between the agency and the client, not the specific representative and the client. A client may believe that he has hired a specific person to be his representative, not the agency itself. Going carefully through the retainer agreement with the client is a good way to educate your client that he is the client of the agency, and not of the specific representative. Reading and discussing the retainer with the client ensures that the client reads the agreement, and that he or she knows that your agency takes its contents seriously.

Because it delineates the specific services that the agency agrees to provide, and sets out the rights and responsibilities of both the agency and the client, the retainer agreement can limit an agency’s liability. Without a written retainer agreement, there is no clear record of exactly what the agency has agreed to do for a client, and it will be harder for the agency to establish which services it agreed to provide. Reading over and signing a written retainer with each client will also start your agency-client relationship on a professional note, and can decrease the chances that a client will be angry enough with your agency to want to take legal action against your agency.

*Sample Case File Organization***LEFT SIDE OF FILE**

Retainer Agreement
 Consultation Questionnaire
 Income Verification and Consultation Receipt
 Fees and Costs Agreement
 Copy of money order for LIS fees
 Opening Case Memo
 5 pages of File Notes

RIGHT SIDE OF FILE

Three dividers labeled: Applications; Correspondence; and Misc.
 Copies of all applications
 Copies of money orders for CIS fees
 Copies of photos
 Copies of any supporting documentation
 Copies of any correspondence from USCIS or other government agencies

– Lutheran Immigration Services of Nebraska

CASE FILES**Case Filing Systems**

An asylee comes to your agency for help filing a relative petition for his wife and children. While the petition is pending, he asks the agency to help with his adjustment application. While his adjustment application is pending, he applies for a refugee travel document. Do you open a new file for each of these applications? Or do you keep all the applications for the same client in separate files? Your agency may do either, but it is important to decide in advance how you're going to organize files, and to do it consistently. This is crucial so that you can quickly locate files and applications—and so that you can

make sure not to lose files. This section will examine different models for case filing.

Standardized Case File Organization

When opening a new case, a staff member should create a case file that will chronicle all actions the agency takes on the client's behalf from start to finish. Program managers should develop a standardized case file order for all cases. This allows staff to quickly locate items in the file—immigration files can quickly become unwieldy and crowded. It also allows the agency to quickly understand what has happened in a particular case if the legal worker who opened the case is unable to complete it.

What to Put Into Case Files

Case files should contain copies of all applications and/or correspondence the agency files with DHS and/or EOIR on the client's behalf. They should also contain a copy of the agency retainer agreement; copies of all communication received from DHS and/or EOIR pertaining the client; copies of any correspondence with the client; copies of client documents; legal and factual research on the client's case; and case notes.

A Filing System That Provides Information At a Glance

One accredited representative at a one-person immigration agency has set up a filing system that allows him to look at a file and immediately identify what type of case it contains, and what stage the case is at. Father Paul Kasun at the Benedictine Mission House in Schuyler, NE organizes files by last name of the petitioner; this allows him to group families together. Each immigrant, including derivatives, gets a separate case file. Father Paul then puts a colored flag on each file folder that identifies the substantive issue in the case: I-130, I-485, N-400, etc. He also has flags that signify that there are criminal issues in a case, or that a waiver will be needed. He can change flag colors if necessary. Furthermore, he puts a 3x3 post-it on each file to indicate where in the application process the case is. A yellow post-it means the application has been filed and is awaiting a receipt; pink indicates that there's something that needs to be taken care of right away; blue means the client has an upcoming appointment; and purple that there is a deadline coming up by which the client needs to contact Father Paul, or Father Paul needs to contact the client.

This color-coded system saves Father Paul time. He works alone and gets numerous calls and visits from clients. When a client calls to ask about her case, a quick glance at the file gives Father Paul a lot of information about the substantive and processing issues in the case, and allows him to answer client questions much more rapidly. It also lets him more quickly take stock of the work he needs to do.

– Paul Kasun, Benedictine Mission House, Schuyler, NE

Case Notes

Immigration legal staff **MUST** keep detailed notes about each of their cases. This creates a record for the agency of the work that has been done on the case. It allows the representative to work more efficiently; avoid errors and confusion; allows the agency to transfer other staff to the case with minimal effort; and protects the agency against liability.

Case notes should contain a complete record of everything that has happened on a case that is not otherwise reflected in the file. The representative on the case should note all actions he or she takes: meetings with the client (including a brief explanation of what happened during the meeting); phone calls about the case; research and writing done on the case; and the date applications or letters were mailed. It is not necessary to duplicate information contained in applications or evidence in the file: for example, an accredited representative might meet with a client and work on an affidavit. The case notes would say that the meeting took place and that the representative and client worked on the affidavit; the notes wouldn't normally need to say anything about the affidavit's contents, since those are already in the affidavit.

Case notes should allow another representative to step in and take over the case tomorrow. They should also allow the agency to reconstruct the work the agency did on a case years ago.

Program managers should not assume that staff will instinctively know what makes for appropriate case notes in immigration matters. Because immigration cases may remain open for many years, it is essential that case notes tell the full story of the case. **See attached “Sample Case Notes for Case File” on page 88.** Programs should give their staff clear instructions about what information to record in case notes.

Note that many immigration software programs include a case notes recording function. Recording case notes in a software program is generally more efficient than handwriting them; it also has the advantage of being much more legible.

What Happens When You Don't Keep Good Case Notes

“Immigration Legal Services (ILS)” had one staff member, “Sally,” who handled immigration applications. Sally was the only person at the agency who knew anything about immigration law. She assured her director that she had everything under control, and she used Immigrant Pro software (or so she said), so the director assumed she was doing a good job. Then suddenly Sally left ILS. The director started to get calls from clients asking what was happening with their cases. She went into Sally's office to figure out what was going on. She found case files piled up everywhere. When she opened the files, she couldn't figure out what had been filed and what hadn't. There were no notes in the file as to what Sally had or hadn't done. Immigrant Pro didn't provide any more clues—there were no case notes in there either.

ILS had to spend months digging itself out from under the mess Sally had created. Clients were understandably very upset, and blamed the agency for missed deadlines on their cases. The agency is struggling to rebuild its immigration program, but its reputation in the community has been severely damaged.

FILING SYSTEMS

File Organization

In order to keep files organized and easily accessible, you need a filing system—case files should not be left piled up in individual cubicles and offices. There is no one right way to organize files: the important thing is to come up with a system that makes sense for your office and to make sure that all staff members follow it.

Many agencies file cases by the last name of the client. If you file by last name, you will need to be clear, in cases involving a petitioner and beneficiary or beneficiaries, that you have decided under whose name to file those cases. Some agencies file cases under the petitioner's name, some under the beneficiary's.

One Agency Files Cases Alphabetically by Case Type:

For example, all I-130 4th preference cases in one section, all I-485 IR cases in another, all N-400s in another, etc.

“One of the pros to using this system is that files that need to be reviewed annually are located in one spot and easy to access. For example, each year, I (the program director) review all of the 4th preference I-130 cases. I attempt to get in touch with the petitioner/beneficiary through phone calls/letters, (even if priority date is not current) just to make sure current contact information is on file. If we are unable to make contact with the petitioner/beneficiary, then we close the case.”

– Nancy Gavilanes, Catholic Charities of Chicago Immigration Services, Chicago, IL

Some agencies assign case numbers for filing purposes.

It is important that your system distinguish between active and inactive cases. You want to be able to quickly identify which cases your staff members are actively working on, and which are no longer active. You will need to make sure that this is the case for both your paper and computer files.

Filing Location

Some agencies have a centralized filing system and require that cases not be left in individual offices, but kept filed in a central location. Other agencies have legal workers keep all their own open cases in their own offices. If you do this, make sure that your staff keep their files in an organized way so

that anyone else on staff would be able to find a file if necessary.

No matter what filing system you choose, make sure that it allows you to locate files quickly, and that staff all follow the same filing system. Make sure that if any individual staff member is out of the office and one of her or his files needs to be located, other staff can quickly locate it.

Access to Case Files

In order to maintain client confidentiality, it is important to ensure that only legal workers at your agency have access to client legal files. This may be quite simple in agencies with large legal departments that are clearly physically separate from the rest of the agency. In smaller organizations with limited space and staff, this may be more of a challenge. It is important that everyone in the agency understand that client legal files must be kept separate from other agency files, and that only legal workers should open and look at legal files. Make sure that you have separate filing cabinets for legal files, and that they are clearly marked as such. Many programs choose to put their immigration legal files in locked filing cabinets.

It is also crucial that immigration legal information about clients be maintained in separate files from other files the agency may have for the client.

Removing Case Files from the Agency

Your staff members are very diligent and want to bring work home with them. May they remove client case files from the office to work on outside of office hours?

Your agency should have a clear policy about removing client case files from the office. Staff generally should not take case files home unless they must do so in order to bring them to an interview or hearing. When files leave your office, there is a danger that they will be lost, or that client confidentiality will not be maintained. Clearly instructing staff not to remove files from the agency except to attend client interviews will best safeguard the files and your clients' confidentiality.

Case File Copies for Clients

The agency should provide clients with a copy of all documents you file on their behalf. However, you are not required to act as a copy shop for your clients, making new copies of the same materials every month. If this becomes an issue, your office may want to consider developing a policy for how many free copies of their files you will give clients. Generally, you should give the client a copy of anything you file with the government on the client's behalf. The best practice is to make the client a copy at the time you mail the documents to the government. Send the copy to the client with a letter informing him of the date the documents were filed, and reminding him to keep the copy in a safe place.

Computer Case Files

At the same time your staff opens a physical file for a new client, you will need to have a new client file opened in your case management software. You will need a standard protocol for opening new computer case files. Depending on the size of the office, it may be important to specify who may open new computer files and at what point in the case acceptance process.

Dealing with Original Client Documents

Many immigration applications require extensive client documentation. On almost every case your agency handles, the agency will need to examine and copy multiple original documents. In order to best protect the agency and the client, make sure that case notes reflect when clients bring documents and when those documents are returned. It is best to keep client documents for the shortest period necessary.

Make sure that when you close a case the agency returns any original documents still in the file to the client.

Case Completion Guidelines

In order to ensure that cases are completed in a timely manner, some programs have case completion guidelines. Catholic Charities of Dallas Immigration and Legal Services, for instance, has a "Ten-Day Filing Rule" that mandates that all cases must be filed within ten days of the case opening. The ten days, the program feels, allow more than sufficient time for the legal worker to prepare the entire case, pass the case through the agency's technical review process, and submit the case to the government.

Case completion guidelines can help staff by giving them clear instructions about how much time to spend on cases, and help them better budget their time. They help prevent a backlog of work from forming. They can help ensure that the agency does not miss deadlines.

Benefits to Clients of Completing Cases in One Day

"I think it is important to finish cases the same day they are started. We make the clients wait in the office while we complete the forms because it makes them feel more invested in the process. They mail the applications themselves which makes them more responsible for their case. I think this is also important. It is part of our attempt to teach people to take responsibility for themselves.

If a client arrives at an appointment but has forgotten to bring something, we give them an appointment to return the next day so that we can finish working on their application as soon as possible."

– Nancy Gavilanes, Catholic Charities of Chicago Immigration Services, Chicago, IL

Case completion guidelines are most appropriate for less complicated cases. They would not be appropriate for complex matters, including asylum applications, VAWA applications, and removal defense.

Closing Cases

When you conclude a case (meaning that you finish the work agreed to in the retainer agreement), the agency withdraws representation, or the client leaves the agency before completion of the case, what happens to the case? You will need a system by which completed or otherwise terminated cases may be moved from active to inactive file status. Otherwise, there will

be no way to know whether or not the work on a given case has been completed.

Before closing a case, the best practice is to clearly note in the file what the outcome was. In situations in which the agency has had to withdraw representation, the reasons should be clearly noted in the file. Some programs have a supervisor review files before making them inactive. Some programs have a formal “closing case memo” process that requires the representative to note case outcomes at the time the case is closed.

It is a very good practice to send a standard case closing letter to clients when you close their cases. The letter may explain that the program’s representation, as agreed to in the retainer, has ended, and the case is now inactive. The letter might explain the agency’s file retention policy and case file copy policy.

You may also seek the client’s feedback on your services. **See attached “Sample Client Satisfaction Questionnaire” (English and Spanish) on page 99.**

This would also be the moment to ensure that all of the client’s original documents have been returned to her.

File Retention

How long should your agency keep case files? Are you required to keep them forever? If not, at what point can you get rid of them? How might you get rid of them? Do you need to inform a client when you dispose of her file?

Your office needs a policy about how long you retain client files, and how and when you dispose of them. Keeping files forever would become financially burdensome, but state laws mandate that law offices maintain client files for a certain period. Maintaining client files can also be very beneficial to your clients, and may protect your agency in case of a malpractice claim or other charge (note that the better-organized and complete the file is, and the more detailed the case notes are, the better the file will help protect you from malpractice claims).

Every state has rules about how long attorneys must retain closed case files; many states require that a law office maintain client files for a minimum of five years. Even if your agency has no attorneys on staff, the best practice is to find out what the rules are in your state for attorney files, and to retain your files for at least that long. To learn what the rules are in your state, contact your state bar ethics counsel or check the bar website, as many have their rules and opinions on-line. Here is a link to state ethics rules: <http://www.abanet.org/cpr/links.html>

You may decide that for your purposes you need to keep the files longer than your state mandates. It is a good idea (and your state may in fact require) that you keep client files for as long as the client might reasonably have a need for the file. That may lead you to decide that different types of immigration matters should have different holding periods. For instance, you may want to keep copies of client adjustment of status applications for at least five years after the adjustment takes place. That way, if the client wants to naturalize, you will still have a copy of the file at the point the client is eligible to apply for naturalization. If your state requires maintaining files for less than five years, you may decide not to keep approved naturalization files for five years, as the client would be much less likely to need the file after he is naturalized.

Disposing of Client Files

When you do dispose of client files, you need to do so in a way that maintains your client’s confidentiality. Chapter Two recommends buying a shredder or using a shredding service to dispose of confidential client information. You will need to make sure when you get rid of client files that you do so in a way that maintains client confidentiality.

DATE TRACKING

Tickler System

The agency must have a system by which it tracks important dates in each client's case. Immigration practice is filled with important deadlines; missing a deadline can make a client ineligible for a benefit; and sometimes may make a client deportable. A "tickler" system that tracks and reminds the immigration worker of important dates in each case is crucial to an immigration legal program. Note that the "ticklers" for each immigration worker's cases must be accessible to other immigration staff, so that if a worker is out, the agency can ensure that deadlines are not missed on any cases.

Paper-based tickler systems are not adequate. Notations in staff members' personal calendars won't ensure that deadlines are not missed. A staff member might overlook his or her own notations; and the agency must be sure that even if a particular staff member is not at work the agency is aware of all deadlines. Even a one-person office needs a better reminder than paper-based notations.

The case management software you choose should have tickler capabilities. Make sure that your office is trained on how to use it, and actually uses it. Missing important deadlines is easy in an agency handling multiple cases, each of which has its own important deadlines. It is also a common form of malpractice, but one that is easy to avoid with a good tickler system.

Staff Calendar

The tickler system must be set up so that all dates are available for all legal workers to view. A system that reminds only the individual legal worker on a case of upcoming dates is of no use when that staff member is out sick or on vacation. It is also important that agencies with more than one legal worker, allow all staff access each other's calendars. Again, staff must have access to each other's calendars so that they can cover appointments and interviews for anyone who is out of the office.

MAIL

Client Mail from Government Agencies

Immigration programs receive a large volume of mail for clients. Programs that file G-28s are supposed to receive a copy from USCIS and EOIR of every notice sent to every client. What should the agency do with this mail? Is filing it in the client's file sufficient, or should the agency contact the client about every notice?

One model: support staff open all incoming mail from government agencies. They enter any relevant dates into the case management software system. They call the client if the notice contains any upcoming interview, hearing, appointment, or filing or other deadline. In all cases, they automatically send the client a copy of the notice and give the original to the client's representative, who retains it in the case file.

Why it is important to contact clients about mail from government agencies: as anyone who provides immigration legal services knows, clients do not always receive all their mail from DHS, EOIR, or DOS. This is often through no fault of the client's. Informing your clients when you receive notifications for them is an important service you can render your clients; it is one of the advantages of being accredited and filing a G-28 (or EOIR-28).

Contacting clients about their notifications can also protect the agency from malpractice liability. If you as the representative receive notification of an important date in a client's case, whether it is an interview appointment, a notice of receipt, or a fingerprint appointment – and do not inform the client, you might be held liable if the client doesn't receive the notification and fails to appear or respond.

To facilitate client contact, but sure to get a client's home, work, and mobile phone numbers, as well as the phone numbers of a relative or close friend. Also obtain a client's home and work addresses and any email addresses he or she may have.

Mail to Government Agencies

Programs should make sure that they mail everything to the government on a client's behalf via certified mail, return receipt requested. When the return receipt comes back to the agency, it should be put into the client's file, in a way that clearly indicates which piece of correspondence it goes with. This ensures that the agency has some proof of filing for everything it submits to the government on a client's behalf. Because immigration law is replete with deadlines, such evidence can be crucial. It is not uncommon that USCIS or another government agency will lose a client's application, or note a filing date incorrectly. Having proof of the filing date may make the difference between a client being granted a benefit or not, or even between remaining in the U.S. and deportation.

The cost of mailing everything to the government certified mail, return receipt requested should be built into the agency's fees.

TRACKING CASE AND CLIENT INFORMATION

Tracking your program's overall performance by collecting pertinent data is critical to making informed decisions about case mix, case selection, staffing, fees, and financial health. Having and using an effective case management software system is vital for efficient and effective tracking of client data. Chapter Six, "Managing Financial Performance," discusses the importance to funders of accurate program data. Statistics about how many cases your program accepts, what kinds of cases they are, how much work they require are important to your program manager in order to understand where the program is and how it can improve.

Client Feedback

When you send out a case closing letter, you may choose as well to ask for feedback regarding the client's satisfaction with the program's services. The best way to ensure that clients return this is to include a postage-paid return envelope.

Client Complaint/Grievance Procedure

Some programs choose to create a client complaint or grievance procedure. This is an important tool that gives clients a way to handle any problems they have with the agency; it tells them where to turn and what to do, and gives clients the sense that their complaints will be heard and taken seriously. For the agency, it provides a way to hear about complaints before they become major problems, so that they can be resolved as quickly and smoothly as possible. They provide a way for program managers to assess how the program and its staff are working.

COUNCIL ON ACCREDITATION

Some immigration legal service providers seek accreditation by the Council on Accreditation (COA). COA accreditation is not to be confused with BIA accreditation (which allows non-attorneys at "recognized" agencies to practice immigration law before DHS and in some cases the Immigration Courts and Board of Immigration Appeals). The COA is an international, independent, nonprofit, child-and family-service and behavioral healthcare accrediting organization. Originally known as an accrediting body for family and children's agencies, COA currently accredits 38 different service areas and over 60 types of programs, including immigration and refugee service programs.

The COA partners with human service organizations worldwide to improve service delivery outcomes by developing, applying, and promoting accreditation standards. The COA evaluates each organization

according to COA's own best-practice standards.

The Accreditation Commission awards accreditation or reaccreditation to an organization for a period of three or four years. The COA issues a formal letter of accreditation and a plaque reflecting the achievement to the agencies it accredits.

Which Organizations COA Accredits

COA accredits a number of different social service program areas. One of those areas is "Immigrant and Refugee Resettlement." This requires provision of one or more of the following:

- immigration, citizenship and naturalization legal assistance services;
- refugee pre-arrival, reception, orientation, information and referral services;
- services to meet basic refugee needs, including emergency financial assistance, housing, and health care;
- refugee resettlement and transition services; and/or
- services for separated and unaccompanied immigrant minors.

How does COA Accreditation Interface With BIA Recognition and Accreditation?

The COA standards for accreditation are consistent with the Code of Federal Regulations (CFR). 8 CFR §1292.2(a) that specifies qualifications of organizations to be recognized. The standard is: "A nonprofit religious, charitable, social service or similar organization established in the United States and recognized as such by the Board may designate a representative or representatives to practice before the Board. Such organization must establish to the satisfaction of the Board that: (1) It makes only nominal charges and assesses no excessive membership dues for persons given assistance; and (2) It has at its disposal adequate knowledge, information and experience." Section 1292.2(d) of 8 CFR states that accredited representatives must be "of good moral character."

Prior to applying for COA accreditation for the provision of immigration and citizenship services, an organization should be recognized by, and employ or have volunteers accredited by the BIA. An organization with attorneys on staff would not have to fulfill this requirement.

Benefits of COA Accreditation

The process of gaining COA accreditation may push an organization to improve its systems and service delivery. COA accreditation also provides a framework within which an organization can measure and demonstrate its achievements. This can be quite helpful with funders. Funders may be favorably impressed by the fact that an agency has COA accreditation. Additionally, the COA offers informational webinars and peer review site visits to help ensure that an organization maintains high service delivery standards.

Seal of Approval

"We find that COA accreditation is very useful. With funders, it's like the Good Housekeeping Seal, so it helps bring in money. It also makes us tighten up systems. It makes us prove to someone outside that we are doing quality work."

– Sue Colussy, Catholic Social Services, Immigration Program, Atlanta, GA

Cost of COA Accreditation

It currently costs \$675 for the initial application. COA will then calculate the accreditation fee using a sliding scale based on an organization's gross annual budget. Fees start at a minimum of \$6,260 for an organization with revenue of \$500,000 or less. There are additional fees associated with the peer review two-day on-site review, as well as a \$300 maintenance of accreditation fee.

COA Contact Information

coainfo@coanet.org

Tel: 212.797.3000

Toll-free number: 866.262.8088

Fax: 212.797.1428

Mailing Address:

COA

120 Wall Street, 11th Floor

New York, NY 10005

Perspectives on COA

COA Leads to Better Practices

“COA is labor intensive, but it does make staff and management reflect on the agency's practices and forces us to look at best/better practices. As a result of the process, we've realized that we do a lot of things well, but that there are also things that we don't do as well and on which we'll work for improvement.”

– Barbara Biebel, Catholic Charities, Resettlement & Immigration Services, Green Bay, WI

COA Impresses Funders

“The COA membership provides opportunities for quality improvement and funding. When funders are aware that an agency has undergone the process of COA membership, funders are likely to give that agency a higher level of credibility.”

– Salah Ansary, Lutheran Community Services of the Northwest, Portland, OR

COA Doesn't Understand Immigration Legal Programs

One agency says that:

“Our parent agency has been COA accredited for many years, so as a program we have to do it. The immigration program is not a social service program, so it's very hard for us to keep up with COA requirements. When we go for the review, people who review us don't know anything about immigration, we have to start from the beginning explaining how we work/what our function is. This takes a lot of time/energy. We have to tell reviewers what to look for when they review us.

COA guidelines make our work more difficult. Reviewers expect to see immigration legal files maintained in the same way that people in the counseling or adoption program keep their files. They expect us to have goals/outcomes/plans in our files like counselors have for their cases.

GROUP PROCESSING

This chapter has focused on individual representation; we explored how to set up systems for one-on-one client representation. This is a very effective way to serve immigrants, but it is not always the most efficient. Some agencies also offer “group processing,” which allows them to serve many immigrants at once. As the name suggests, group processing refers to offering immigration legal services to a group of people at the same time.

Doing group processing now is an excellent way to prepare for legalization. If and when an immigration reform bill passes, millions of immigrants may be eligible for benefits. It will be impossible to serve even a fraction of those millions without some group processing. Agencies that learn now how best to manage group processing will be well prepared to group process legalization applications.

Benefits and Drawbacks of Group Processing

Pros

- Efficient. Group processing can be a more efficient use of your agency’s limited resources.
- More immigrants served. You can generally help more immigrants via group processing than you can through individual representation.
- Generate publicity. A group processing workshop can lead to greater visibility in your community, and possibly media attention.
- Good preparation for legalization.

Cons

- Resource-intensive. Group processing workshops are time-consuming to organize.
- Difficult to ensure that clients are getting as high-quality legal review as they get via individual representation.
- Services not as complete.

For more information on setting up a group processing workshop, please read Chapter Nine, entitled “Naturalization Group Processing Workshops,” of CLINIC’s *A More Perfect Union: A National Citizenship Plan*, found at http://www.cliniclegal.org/DNP/citzplan07/Chpt_09.pdf.