Overview of Achievements, 2018-2019

During the reporting period (April 1, 2018 through March 31, 2019), LAC’s Legal Services Project helped 1,790 New Yorkers resolve 2,290 civil legal cases. These cases concerned three primary issues: 1,447 clients had legal problems related to a criminal record, 153 had legal problems related to substance use disorder (that usually led to a criminal record), and 190 had legal problems related to HIV or AIDS. Many had legal problems related to all of these issues. 329 of these clients were incarcerated at Rikers Island Correctional Facility, served by our special project on site at Rikers.

These 1,790 clients were primarily low-income New Yorkers with criminal histories, virtually all of whom had no other access to legal help to resolve problems related to their criminal record, substance use disorder, or HIV/AIDS. **LAC’s direct legal services resulted in annualized benefits of $2,728,187** to these clients and class members in litigation involving these clients. The benefits consisted of employment earnings and health benefits, government benefits, and settlement awards. In addition, we project an **additional $175,605 in projected lifetime earnings** through rap sheet review and counseling.

LAC also delivered 365 instances of technical assistance (TA) to 149 organizations throughout New York State and 44 trainings to 2,029 providers on similar topics. TA and training covered issues directly related to the civil legal service needs of these organizations’ own clients, and thus increased their capacity to resolve these issues in the future.

**Population Served:** People Discriminated Against Due to Criminal Records, Substance Abuse, and/or HIV/AIDS

**Area Served:** Statewide

**Total Funding:** $1,297,688

**Total IOLA Grant:** $165,000

**Staffing - Full Time Equivalents:**

- **Total Staff:** 31.00
- **Lawyers:** 15.00
- **Others:** 14.00
- **Paralegal:** 2.00
**Direct Legal Services**

6,871 people benefitted
2,290 legal cases closed

**Breakdown of Cases by Legal Problem Area**

<table>
<thead>
<tr>
<th>Legal Cases Closed</th>
<th>2,290 cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>People Benefitted</td>
<td>6,871 people</td>
</tr>
</tbody>
</table>

(employment): L approached LAC after being denied job after job as a fitness trainer because of his criminal convictions. He wondered if someone like him, with a recent conviction history, could ever get a decent job and was feeling hopeless. L told LAC’s paralegal that had been self-disclosing his convictions during job interviews. The paralegal advised L that under New York City’s Fair Chance Act, employers were not allowed to ask about criminal convictions until making a conditional job offer. Therefore, L did not have to reveal his convictions during interviews. LAC’s paralegal also explained other rights L has under New York law. Shortly after that meeting, L secured a job with a major NYC gym. Relying on LAC’s advice, L did *not* disclose his convictions until receiving the conditional offer. According to L, his meeting with LAC’s paralegal gave him hope and completely changed his view about his job and life prospects.

**Housing:** E.P. contacted LAC after being denied NYCHA housing. After three years on a waiting list, her turn had finally come up. However, NYCHA deemed her ineligible because of a 4-year-old misdemeanor conviction for stealing diapers for her baby. E.P. had a right to request a hearing but needed help. LAC’s legal team determined that the ineligibility period for people with one misdemeanor conviction would run out in several months. LAC worked with E.P. and NYCHA to schedule a hearing near the end of the period and advocated with NYCHA about E.P.’s case. On the day of hearing, NYCHA immediately informed E.P. that it would withdraw its ineligibility finding and restore her to the top of the list. She and her six-year old daughter could finally leave their homeless shelter for a two-bedroom NYCHA apartment. E.P. called LAC months later to say they were in the apartment!
Other Services...

Number of People Benefitted by Services Other Than Direct Legal Representation

<table>
<thead>
<tr>
<th>Service</th>
<th>People</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>25,332</td>
</tr>
<tr>
<td>Community Legal Education</td>
<td>12,678</td>
</tr>
<tr>
<td>Pro Se Assistance</td>
<td>383</td>
</tr>
<tr>
<td>Online Assistance</td>
<td>12,271</td>
</tr>
</tbody>
</table>

Other Legal Related Services: Overview

LAC provides trainings for clients and their service providers, does outreach at job fairs and other community events, and, to broaden its impact and empower clients, authors and disseminates a wide variety of free print and web-based publications that help *pro se* individuals (including incarcerated persons) and their advocates understand and enforce their civil rights. The target population includes individuals with criminal records, substance use disorders, and/or HIV/AIDS and their service providers throughout New York State. During the reporting period, LAC trained 2,029 individuals and disseminated 22,771 copies of publications.

LAC also revised several of its re-entry publications to reflect recent, positive changes in the law, created two new brochures to describe the rights of people with criminal records to vote and seal certain old criminal conviction, and translated two publications into Spanish. LAC’s most popular publications and videos, disseminated through hard copy and/or LAC’s web site, include:

- Your New York State Rap Sheet (English and Spanish);
- Lowering Criminal Record Barriers (English and Spanish);
- Criminal Records and Employment: Protecting yourself from discrimination;
- Sealing Old New York Convictions (English and Spanish)
- Voting and Criminal Records (English and Spanish)
- HIV and Employment (English and Spanish);
- HIV Confidentiality (English and Spanish);
- To Disclose or Not to Disclose (English and Spanish);
- How to Gather Evidence of Rehabilitation; (English and Spanish)
- Are You Somebody With HIV/AIDS? Alcohol or Drug Addiction? Criminal Record?
- Advocating for Your Recovery: What to do When Ordered Off Medication
- FAQs – Criminal Justice; FAQs – Substance Use; FAQs – HIV/AIDS

Our services also include a weekly Rap Sheet Workshop, attended by 383 New Yorkers this year. Participants seek LAC’s help obtaining their New York State criminal records and/or have questions about the implications of a criminal record for employment or housing. The workshop teaches people how New York’s criminal records system works; how to get, understand and, correct a criminal record; and rights and obligations at the workplace, in housing and with respect to voting.
Other Legal Related Services: Examples

1. At an offsite workshop for clients of a service provider, LAC’s staff presented about overcoming employment barriers due to criminal records. Many of the clients had faced repeated job denials due to their criminal records. Some asked if they could expunge their convictions, seeing no other way to get a job or housing. Most had known about certificates of rehabilitation, which provide evidence of rehabilitation; however, none had applied because they were unsure if they were eligible. LAC’s paralegal gave an overview of the eligibility requirements, application process, and ways in which these certificates did – and did not – remove barriers to jobs and housing. LAC also encouraged them to get their criminal records through LAC to determine eligibility. Most did.

2. At an offsite workshop, LAC’s paralegal discussed NY’s new law that allows people to seal certain criminal convictions more than 10 years old. While some clients were disappointed to learn that they were not eligible, others were pleased to learn that their convictions might be eligible. They made appointments to follow up individually with LAC paralegals. Additionally, clients wanted to know about the NYC Fair Chance Act. They wanted to know when and what were required to disclose about their criminal histories to a prospective employer.

3. During a weekly “rap sheet workshop” at LAC, a participant stated that he was planning to apply for a certificate of relief from disabilities (CRD) to help gain employment but was concerned about an out-of-state conviction. He was required to complete a drug treatment program while on probation, but left the program early and thought that might prevent his getting a CRD. LAC’s paralegal advised him how to obtain a certificate of disposition for his case in order to determine its final outcome, and if the case was not fully resolved, what next steps he could take.
Impact Cases

Beckett v Aetna

*Milestone:* In October 2018, the federal court in the Western District of Pennsylvania granted final approval of our $17.1 million settlement of a national class action lawsuit against Aetna for violating the HIV privacy rights of over 13,000 members in connection with a mailing which revealed members’ HIV medication through the mailing envelope’s large, transparent window. The mailing went to approximately 2,400 New Yorkers, addition to individuals throughout the United States. LAC and its co-counsel had filed the case in August 2017.

*Impact:* As a result of the settlement, checks totaling $12,481,451 were mailed to the approximately 13,000 class members nationwide. 2,418 people who lived in New York at the time of the privacy violation received a total of approximately $2,009,000. Most class members automatically were sent $624. Those who filed claims could get up to an additional $20,000. And some received thousands of dollars as “immediate relief” due to emergency expenses incurred (e.g., having to move because of the privacy violation) during the course of the litigation. To prevent future such privacy breaches, Aetna also implemented practice changes, which should benefit all of Aetna’s 23.1 million members.

2. Doe v large NYC area employer #1

*Milestone:* LAC and its co-counsel, Francis & Mailman, entered into a confidential settlement of litigation alleging that a major New York City area employer illegally denied employment based on criminal conviction information without undergoing the individualized analysis required by New York City and State law. The suit also charged the employer with violating State and federal background screening laws by failing to provide the requisite notice to job applicants and employees with criminal records prior to denying employment.

*Impact:* The case resulted in the employer’s development of a broad policy to ensure fairer employment practices for people with criminal records. These practices should benefit the approximately 300 number of applicants and employees with criminal records and other issues that appear on background checks. Other relief in the case is confidential.


*Milestone:* LAC and its pro-bono co-counsel, Skadden, Arps, Slate, Meagher and Flom, filed an application in New York State Court to seal the criminal record of A.B. under Criminal Procedure Law § 160.59 (CPL 160.59). CPL 160.59 is a 2017 law that allows New Yorkers to apply to have certain old criminal records sealed. If successful, A.B.’s conviction will be inaccessible to most employers and housing entities. The District Attorney’s Office has opposed A.B.’s application. In March 2019, LAC filed an extensive memorandum of law and client affidavit in support of sealing.
Trainings

LAC engages in a multi-pronged strategy to professionally grow staff and prepare Board members for their responsibilities. LAC’s three new attorneys received comprehensive orientation and training that includes a series of internal training events as well as external training. For example, the two attorneys participating in the State mental health and substance use disorder ombuds program attended a 2-day training in Albany for all groups participating in the program. One of LAC’s Senior Paralegals, whose duties shifted with the termination of the offsite program he had been staffing at Rikers Island Correctional Facility, received extensive in-house training when he transitioned to fielding client calls from within the office. The legal services administrator was promoted to Manager of Administration, and she has been provided thorough training to the new administrative. LAC also encourages staff to attend conferences. Some of the conferences attending this year were the “Beyond the Bars” at Columbia University, an annual conference about the Fair Credit Reporting Act, and a national conference about expungement of records. LAC’s entire staff took part in a two-day racial justice and equity training this year, as well as a one-day session on “courageous conversations.” LAC also is hiring its first designated Manager of Human Resources, whose duties will include ensuring processes for professional growth.

LAC’s new Board members undergo a comprehensive orientation at LAC, where they meet with new staff for an overview of the agency’s key activities and learn about their responsibilities as Board members. They also receive regular and detailed reports in advance of Board meetings.

Technology

Over the last few years, LAC has been exploring the use of online forms as an intake method. We first started to use it a few years ago to collect basic information for eligibility for potential clients across the nation that were forced off Medication-Assisted Treatment. We have received almost 100 submissions since we started, 4 of them from New York within the last year.

Last June we started using webforms for potential HIV clients and have so far received 44 submissions. These forms are not integrated with our main data system, so the information from them must be entered into our information systems by hand if they are eligible to become a client. However, this use of the form has allowed us to a) save staff time by allowing us to determine eligibility without a phone call and b) increase client numbers due to the ease and efficiency of use.
**Significant Collaborations**

LAC has extensive relationships with legal service providers, community-based organizations and bar organizations throughout New York State. Because we have provided technical assistance and training services statewide for decades, we have developed long-lasting cross-referral and service relationships with hundreds of employees at agencies and organizations that serve individuals with criminal records, substance use disorders or HIV/AIDS.

We also have comprehensive linkage arrangements with over 60 agencies that provide vital services to people affected by HIV/AIDS in NYC and across the state. Most of LAC’s clients are referred by service providers who know LAC’s 40-plus year history at the intersection of these issues. LAC’s numerous *pro bono* collaborations are discussed in Section G.

LAC lawyers and policy staff members also participate in many networks and coalitions of HIV service providers, substance use disorder treatment providers, re-entry groups and legal services organizations. LAC co-chairs the Coalition of Reentry Advocates (CoRA), a group of legal services lawyers throughout the State which advocates for public policies and practices to promote reentry. LAC also leads the Alternatives to Incarceration (ATI) Coalition, a statewide network of ATI providers which advocates for increased attention to and resources for ATI services. LAC’s Director and President also sits on the Governor’s Council on Community Reentry and Reintegration, which brings together key state and local agencies, private and community groups to further criminal justice reform. Work on these coalitions contributed to New York’s adoption of significant reentry provisions in the Governor’s 2019 budget as well as measures expanding access to insurance coverage for substance use disorders.

In addition, LAC staff serve on the NYC Bar Association’s committees for Criminal Justice Operations, Health Law and Mental Health Law and on the Association’s Health Law Task Force. One of our Senior Staff Attorneys is an active member of the National Hispanic Bar Association, National Employment Law Association (and its Diversity and Inclusion Committee) and Cafecitos (an informal network of Latina attorneys in the New York City area). Finally, LAC’s attorneys participate in listservs comprised of lawyers and advocates working on legal issues related to re-entry and HIV.
Pro Bono Volunteer Involvement

In 2018-19, we received 3246 hours of pro bono time from law firms, interns, and other volunteers and further leveraged our resources through co-counseling with plaintiffs’ law firms:

Discrimination against individuals with substance use disorders. We continued our collaboration with Paul Weiss, Rifkin, Wharton & Garrison to bring impact litigation challenging discrimination against individuals with opioid use disorder who receive medication-assisted treatment.

Sealing old criminal convictions. We continued our successful pro bono collaboration with Cleary Gottlieb Steen and Hamilton to represent LAC clients in applications to seal convictions that are eligible under a recent 2017 law. We also are co-counseling a sealing case with Skadden, Arps, Slate, Meagher, and Flom.

Co-counseling with plaintiff firms. We continued co-counseling our national class action lawsuit against Aetna for breach of HIV confidentiality, working with co-counsel, Berger & Montague, LLC (see page 4), and continued working with co-counsel Francis & Mailman – a Philadelphia consumer class action firm with whom we have worked for several years to challenge violations of background screening laws that impede our clients’ opportunities for fair employment and housing.

Pro Bono Statistics

<table>
<thead>
<tr>
<th>Source</th>
<th>Volunteers</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorneys</td>
<td>35</td>
<td>1,176</td>
</tr>
<tr>
<td>Law Students</td>
<td>9</td>
<td>1,470</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>600</td>
</tr>
</tbody>
</table>

Total: $1,297,688

Sources Of Funding

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iola Grant:</td>
<td>$165,000</td>
</tr>
<tr>
<td>Foundations:</td>
<td>$53,370</td>
</tr>
<tr>
<td>State Funding</td>
<td>$744,231</td>
</tr>
<tr>
<td>Other:</td>
<td>$335,087</td>
</tr>
<tr>
<td>Total:</td>
<td>$1,297,688</td>
</tr>
</tbody>
</table>

Legal Action Center.8