

"The Unified Voice of Legal Services"



Assessing the Capacity of California's Legal Services System to Meet the Needs of Older Californians

In 2009, California's Senior Legal Hotline (SLH), the California Department of Aging (CDA), and the Legal Aid Association of California (LAAC) began a three-year partnership with a federal Model Approaches grant. The grant aims to better meet the legal needs of many more older Californians, target the most needy among the state's huge, diverse population, and reduce serious disparities in the existing availability of legal help.

LAAC is the statewide membership organization of legal services nonprofits. It serves and strengthens its members through advocacy, training, and support in their efforts to provide critical legal assistance to low-income Californians and ensure equal access to justice.

Because LAAC serves in a statewide coordination role, it is particularly well-placed to assess the statewide system's ability to address the legal needs of older Californians.

This report is a snapshot of the data available for 2008-2009 on the current system's capacity.



The following data comes from three sources:

1. Interest on Lawyers' Trust Accounts (IOLTA)-funded organizations' annual reports. We used the data from calendar year 2008.

2. California Department of Aging Uniform Reporting System Data. We used the first full fiscal year of reported data, July 2008 - June 2009. This data includes only those organizations funded through the CDA with funds from Title III-B of the Older Americans Act (OAA).

3. Capacity Survey results. In January 2010, LAAC sent a survey to all organizations funded through IOLTA, Title III-B, or both and asked the respondents to rank a number of issues related to the capacity of the entire system, priorities for growth, and use of pro bono volunteers.

We hope that this publication can start a conversation that will focus the work of the Model Approaches grant and will guide the community in the years beyond. It will also serve as a baseline when we reassess capacity in 2012.

One Community: Many Funding Streams

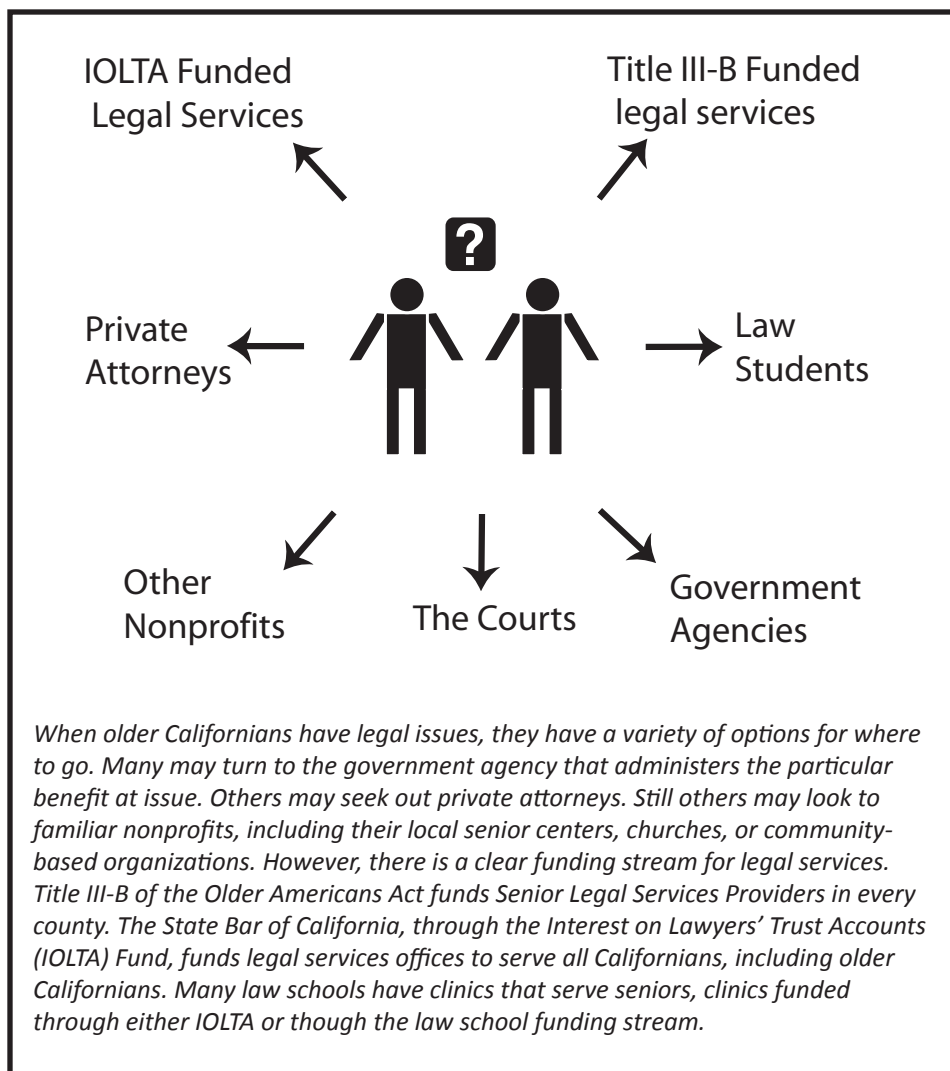
Both California and the federal government fund legal services to seniors by supporting the work of legal services organizations and Area Agencies on Aging.

The California State Bar uses the funds available through interest accrued on bank accounts held by attorneys for clients for such a short time or of such a small amount to not necessitate individual client accounts (IOLTA). These funds, in aggregate, mean millions of dollars for California's legal services community.

With the exception of organizations designed to serve exclusively youth, all other IOLTA organizations serve older Californians in some capacity. This is in addition to foundation or government grants. In Fiscal Year (FY) 2008-2009, the IOLTA distribution, including donations from private attorneys ("The Justice Gap Fund"), amounted to \$15.5 million.

In FY 0910, the amount was \$14 million, and was \$11.9 million in FY 1011. This money funds both field offices, which provide direct legal services (currently 73 programs with a total of 115 offices), and support centers, which provide support to those field offices (currently 22).¹

The Federal Administration on Aging, through Title III-B of the Older Americans Act, funds legal services through the Area Agencies on Aging (AAA). These funds are distributed through the California Department of Aging. Because each individual AAA makes the funding decisions for its Planning

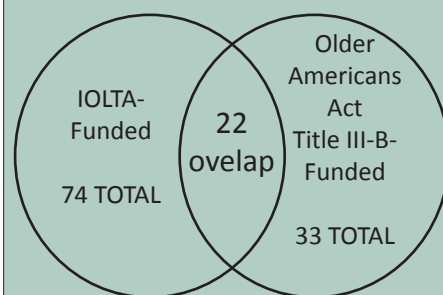


and Service Area (PSA), it is harder to track the total amount distributed. However, in FY 0809, this funding was distributed to 33 PSAs in California. Many of the PSAs chose to give the legal services funding to IOLTA-funded organizations, while others have a legal services department within the AAA. Still others fund other, non-IOLTA-funded nonprofits.

All of these organizations are also funded through private foundations, government grants, individual donations, and fundraising events. It takes many sources of funding to serve the legal needs of older Californians.

¹Number at the time of this publication's writing. In 2011, the number of programs dropped from 73 to 72.

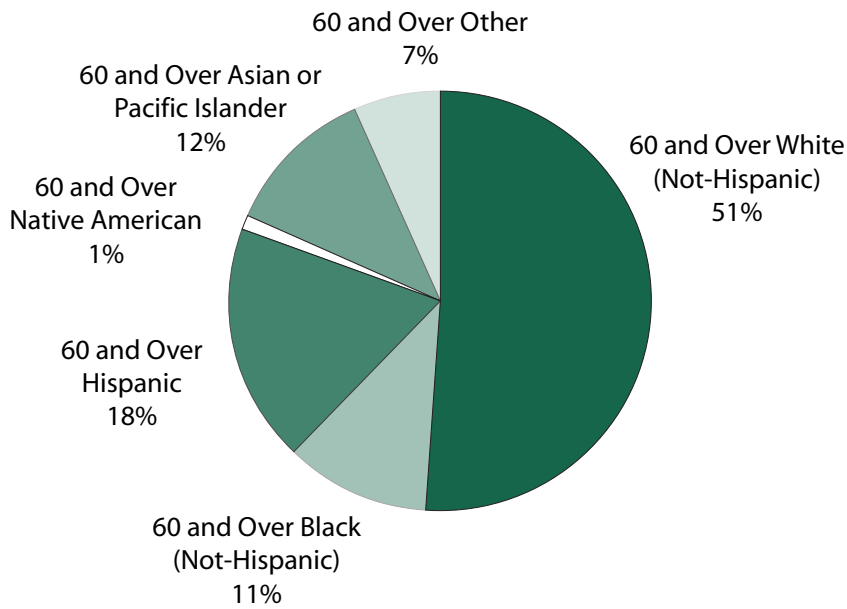
California organizations that serve seniors*



40 organizations responded to the Capacity Survey. This number counts each respondent separately, even if respondents were field offices of the same organization. Of these 40, 31 are IOLTA programs (17 receive only IOLTA), 23 are Title III-B funded programs (9 receive only Title III-B), and 14 receive funding from both IOLTA and Title III-B.

**Chart reflects organizational numbers when survey conducted.*

Older Californians Served By IOLTA-Funded Organizations in 2008

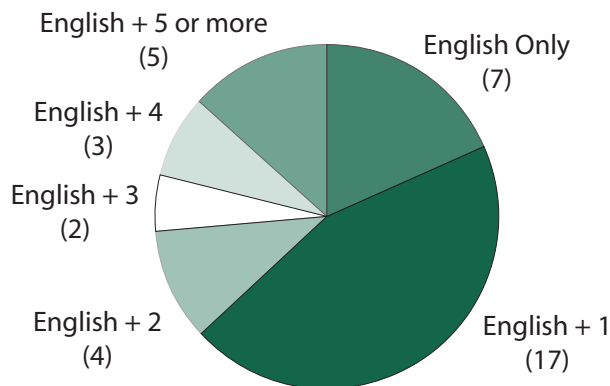


Languages Spoken by Staff at Surveyed Programs

(Data from Capacity Survey)

English	Korean	Punjabi	Bulgarian
Spanish	Mandarin	Farsi	Hebrew
Russian	Tagalog	Hindi	Taiwanese
Portuguese	Vietnamese	Hmong	Armenian
Japanese	Cantonese	French	Khmer

Languages Spoken by Staff at Surveyed Programs*



*Number in parentheses indicates total number of programs

Who is Being Served Now

Organizations funded by Title III-B and IOLTA track their 60+ client demographics in different ways, depending on what they must report to funders.

For all programs discussed here, the majority of clients identify as white. Title III-B organizations report serving 70% (25,253) whites in FY 0809, though that number likely includes at least some of the 5,877 Latino clients. IOLTA organizations report serving 51% (30,074) non-Latino whites. Title III-B organizations report serving 7% (2,532) African Americans, while IOLTA organizations report 11% (6,585).

Title III-B organizations report serving 8% (3056) Asian and Pacific Islander clients, while IOLTA organizations report 12% (6,806). Both report serving under 1% Native American clients.

California's population grows increasingly diverse as it ages. The above data does not reflect current perceptions of the diversity of California's older population.

Number of Older Californians Served

Date range: Title IIIB: FY0809; IOLTA 2008

Title III-B organizations
Total: 35,976

IOLTA organizations
Total 58,703

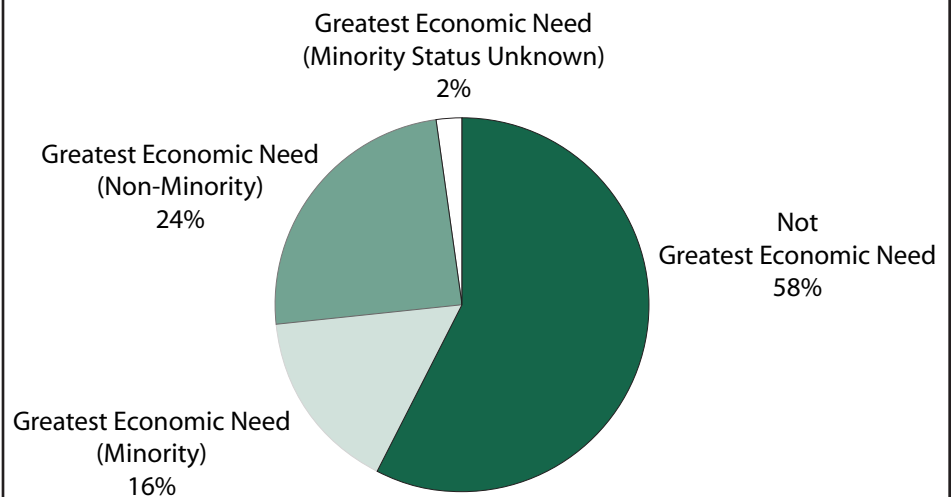
Serving the Most Vulnerable Older Californians

Title III-B of the Older Americans Act mandates that AAAs “give priority to legal assistance related to: income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.” Older Americans Act, Pub. L. No. 109-365, § 307(a)(11)(E) (amended 2006). Additionally, the Act requires outreach regarding legal services available to be targeted to the most vulnerable of older Californians, including: those who live in rural areas, have limited English proficiency, those who have low incomes (including those with low incomes within minority populations), have disabilities, and those in “greatest social and economic need.” *Id.*

According to data from the California Department of Aging, the majority of clients served (58 percent) during FY0809 were not categorized as those with greatest economic need (see chart above). Of the total clients served (35,976), only 13 percent identified as having limited English proficiency, and roughly 17 percent identified as rural residents. This suggests a need for further targeting efforts to those most vulnerable groups of older Californians.

In this document, we examine data on cases closed in four key areas: health, housing, income, and elder abuse. We include other case information, but have focused on those basic life necessities that require legal assistance.

Greatest Economic Need of Clients (CDA FY 2008-2009)*



**Information used with permission.*

Reflecting the Realities

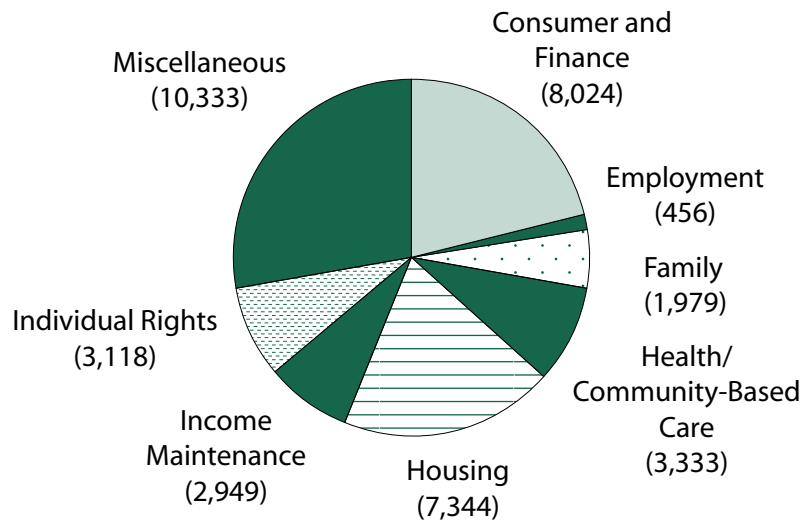
According to the American Community Survey data for 2009, California's 60 and over population was estimated at 5,881,977. Of those aged 65 and over (4,143,231), approximately 8.7 percent were at or below the poverty line (an estimated 360,461 people).

It should be noted, however, that the federal poverty line doesn't necessarily give an accurate picture of those older Californians who face economic hardship. A more accurate measure, one being used by some programs in the state, is the Elder Economic Security Standard TM Index from the UCLA Center for Health Policy Research.

In 2009, researchers found the Elder Index in California to be anywhere from 158 to 293 percent higher than the federal poverty guidelines for that same year (\$10,830 for a single person, \$14,570 for a couple). That range includes those who rent, owners without a mortgage, and owners with a mortgage.

Source: http://www.healthpolicy.ucla.edu/eess0910_pdf/California.pdf

Total Cases Opened (CDA FY 2008-2009)



A Word about Definitions ...

The definitions regarding cases used in this publication vary slightly depending on the data source.

When discussing case levels, the LAAC survey used terms of art used in reporting to the State Bar of California Office of Legal Services in grant applications and reports. Those terms for case closure are close to, but not identical to, the terms used by the California Department of Aging.

LAAC Survey Terms	CDA Reporting Terms
No Assistance	
Counsel and Advice Only	Counsel and Advice*
Brief Service	Limited Additional Services
Administrative Representation Litigation if Necessary	Legal Representation

**The CDA Reporting Term "Counsel and Advice" includes several case closure terms, including "Referred after Legal Assessment" and "Other."*

What Cases Get an Attorney

As every legal services provider knows, there is a natural triage that occurs when clients enter their doors. Even when funding is robust, some intake clients do not have meritorious claims, some clients need simple counsel and advice only, and others may need full representation, up to and including litigation.

For California's older population, many of the cases that go beyond "counsel and advice" include:

- Consumer and Finance (2,293 or 30% of those Consumer and Finance cases closed in FY 0809 reported to CDA),
- Estate Planning (2,018 or 40%),
- Medi-Cal, Medicare, and other health care issues (1,029 or 33%)
- Landlord/Tenant (1,145 or 30%),
- Elder Abuse (493 or 42%), and
- Real Property (428 or 25%).

IOLTA organizations do not track case type specific to seniors, so LAAC has relied on CDA data alone. However, we can get a glimpse into the capacity of IOLTA organizations to serve older clients by looking at total caseloads. These reflect each office's ability to represent at higher levels of service. In 2008, IOLTA programs reported cases closed at above the "counsel and advice" service level to be:

- 28% for Consumer and Finance
- 39% for Health
- 38% for Housing

Health

Often older Californians need legal assistance to maintain or gain access to the health care that they need.

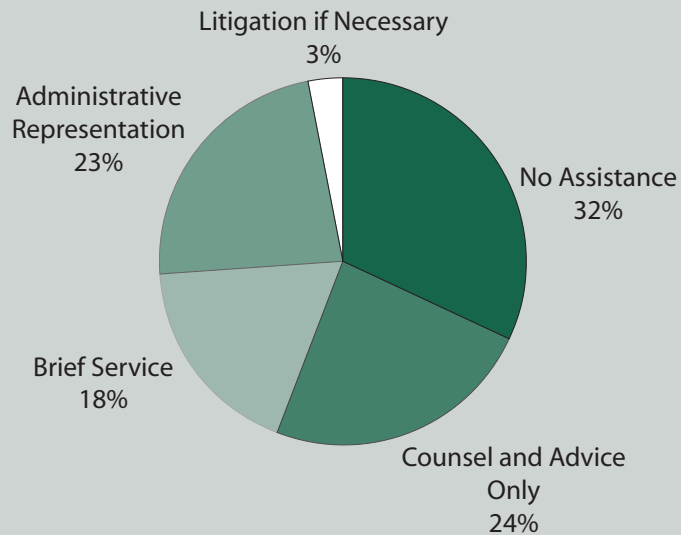
Older Californians receive care through Medicare (the federal program), and Medi-Cal, California's version of Medicaid.

The following charts examine data regarding health-care related cases as reported by the California Department of Aging and through the survey administered by LAAC. Data captured in the survey reflects the percentage of respondents who provide services in the following areas, and at what levels of service they have the capacity to serve clients. Data from the CDA (see chart on opposite page) reflects the total number of cases closed in areas classified in the reporting system as "Health/Community Based Care."

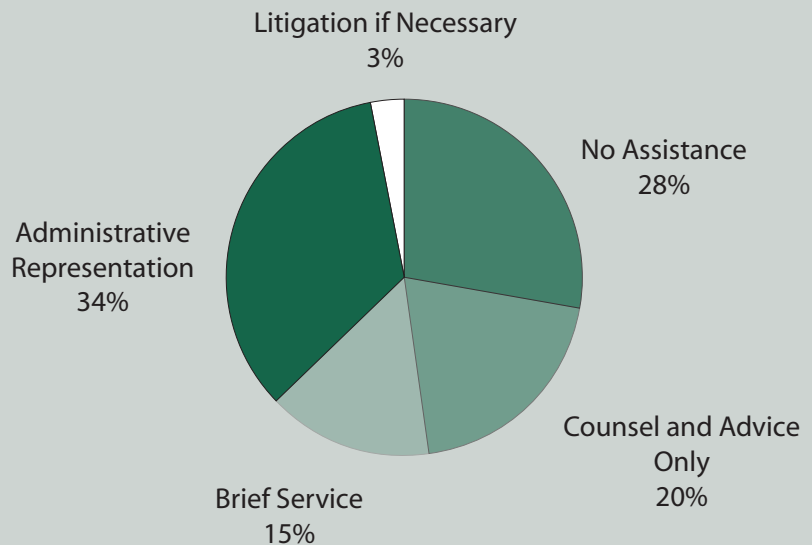
Roughly a third of the organizations responding to the LAAC survey reported that they provided no assistance with Medicare and Medi-Cal cases. While significant percentages of the organizations could provide administrative representation in these cases (23 and 34 percent, respectively), only 3 percent of organizations reported a capacity to provide litigation if necessary.

As noted on the chart outlining CDA data on opposite page, cases closed with legal representation comprised the smallest percentage of total cases closed in all three "Health/Community Based Care" categories.

Highest Level of Service: Medicare (Capacity Survey)



Highest Level of Service: Medi-Cal (Capacity Survey)



Health Care Cases Closed and Level of Service

(As reported to the CDA in FY 2008-2009)

	Counsel and Advice	Limited Additional Services	Legal Representation
Medicare	515	391	59
Medi-Cal/Medicaid	962	333	74
Other Health/Community Based Care	630	137	35

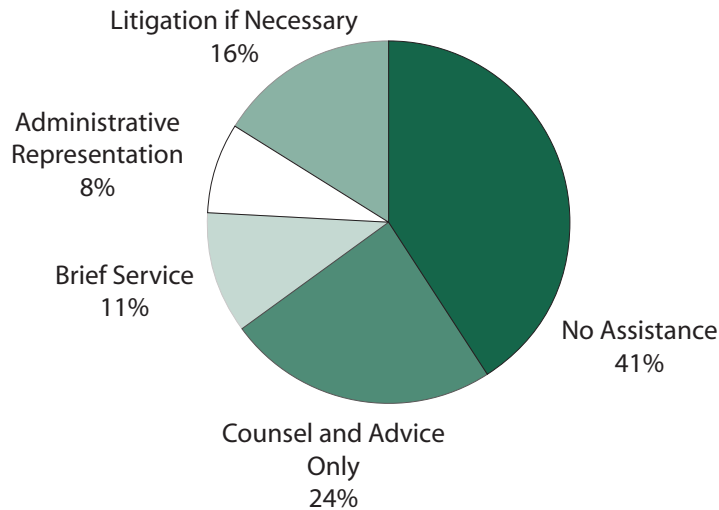
Disability Rights

While the specific categories of data tracked differ between the California Department of Aging and IOLTA organizations, one category that both systems track are those clients with disabilities. Nearly 28 percent of clients served through both Title III-B and IOLTA organizations were identified as having a disability.

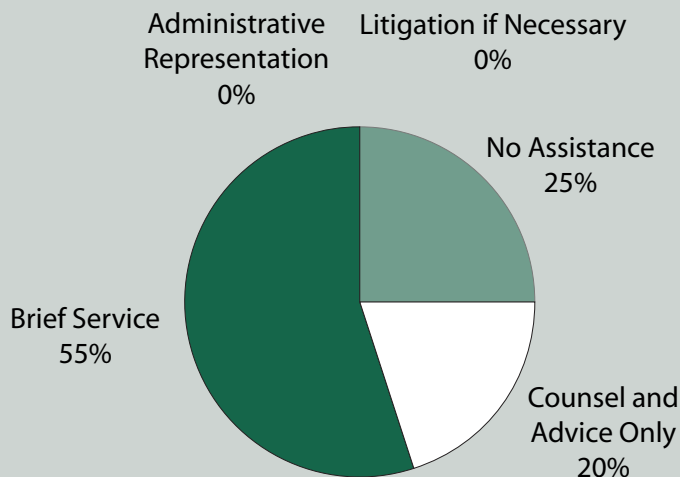
Nearly half (41 percent) of respondents to the Capacity Survey indicated that they did not provide assistance in the area of disability rights. Of those organizations that did, however, 16 percent reported that they had the capacity for litigation if necessary.

According the 2009 American Community Survey, more than an estimated 1.5 million Californians aged 65 and over live with a disability. This number comprises nearly 38 percent of this specific age group, compared to nearly 11 percent of those aged 64 and younger living with a disability.

**Highest Level of Service:
Disability Rights
(Capacity Survey)**



**Highest Level of Service:
Advanced Health Care Directives
(Capacity Survey)**



Number of Older Californians with Disabilities Served

At Title III-B Organizations

9,997

At IOLTA Organizations

16,212

Date range: Title IIIB: FY0809; IOLTA 2008

Income and Benefits

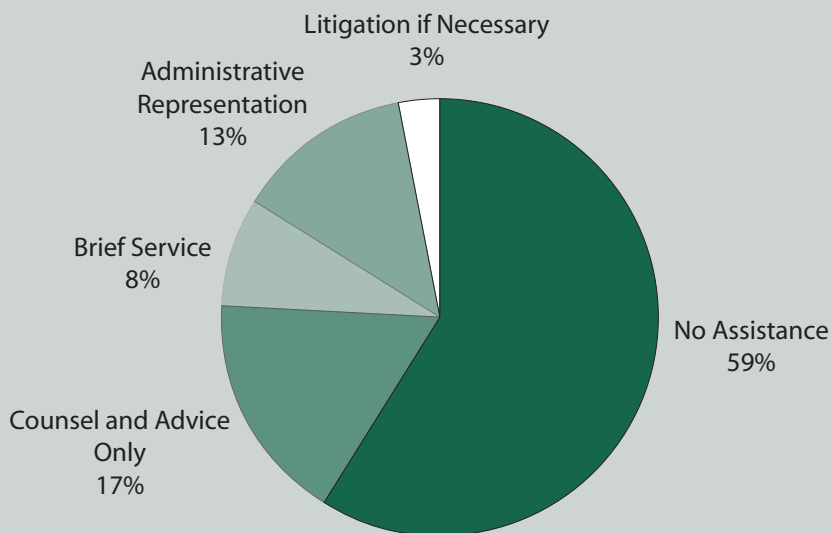
For older Californians, benefits are a key part of the safety net needed to meet basic life necessities. While some may perceive them as added “extras,” benefits actually serve as essential—and in many cases, sole—sources of income.

Many older Californians face barriers to accessing these benefits. Barriers include language access, knowing about the availability of benefits, understanding notices, ability to respond to notices, and cancellation or inability to access benefits. When older Californians face these barriers, legal services providers provide the assistance necessary to access these crucial benefits.

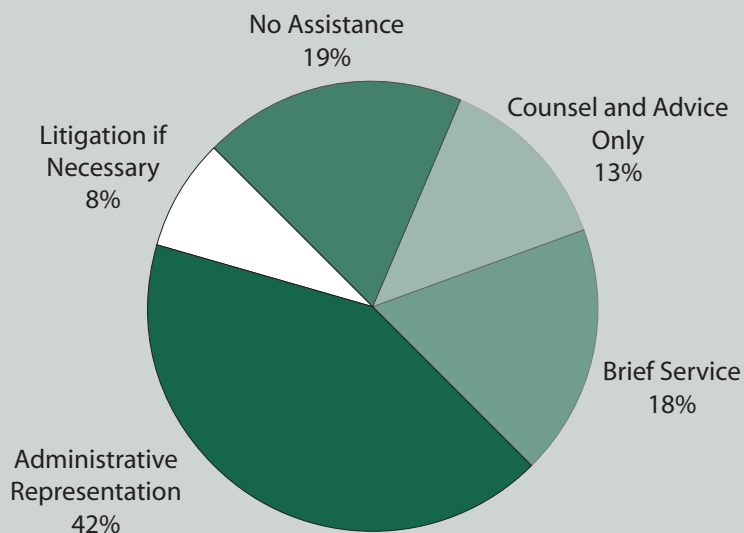
The charts at right illustrate the capacity for programs to provide services in two key areas: SSI (Supplemental Security Income) and CAPI (Cash Assistance Program for Immigrants). SSI provides income assistance to people age 65 and over and people with disabilities. CAPI provides income assistance to those who cannot receive SSI benefits due to their immigration status.²

The table shows the scope of assistance provided in the four income and benefits categories as reported to the California Department of Aging. The category “Other Income Maintenance” includes assistance with sources such as Veteran’s benefits, workers compensation, food stamps, and energy assistance.

**Highest Level of Service: CAPI
(Capacity Survey)**



**Highest Level of Service: SSI
(Capacity Survey)**



**Income and Benefits
Cases Closed and Level of Service
(As reported to the CDA in FY 2008-2009)**

	Counsel and Advice	Limited Additional Services	Legal Representation
Social Security	609	161	33
Supplemental Security Income (SSI)	712	216	53
Pensions/Retiree Benefits	177	28	6
Other Income Maintenance	480	125	38

² California Department of Social Services: <http://www.cdss.ca.gov/cdssweb/PG42.htm>

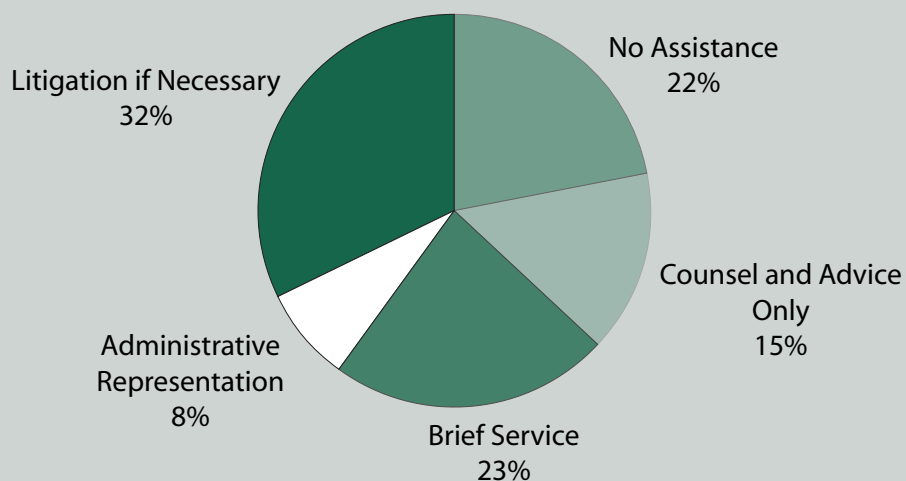
Housing Cases Closed and Level of Service

(As reported to the CDA in FY 2008-2009)

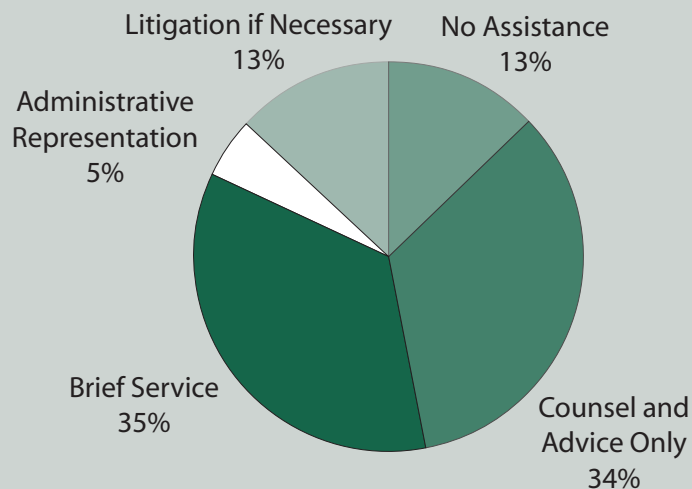
	Counsel and Advice	Limited Additional Services	Legal Representation
Landlord/Tenant	2,630	873	272
Real Property (Home Loans, Foreclosures, Reverse Mortgages)	1,291	374	54
Other Housing Cases	1,008	241	32

According to CDA reporting definitions, "other housing" includes issues such as discrimination, mobile property, and neighborhood disputes, among others.

Highest Level of Service: Public Housing (Capacity Survey)



Highest Level of Service: Foreclosures (Capacity Survey)



Housing

Older Californians face a variety of challenges in maintaining their housing.

For example, as with other benefits, such as those related to health care, older Californians sometimes need legal assistance to secure or maintain public housing.

Older Californians face different challenges based on their housing situations. Landlord/tenant cases comprised the majority of cases reported to the CDA. More than 20 percent of Californians aged 65 and over rented in 2009, according to Elder Index TM statistics.³ That number nearly doubles for older Californians with incomes under 200 percent of the federal poverty level.

According to those same statistics, owners with a mortgage faced the highest average monthly housing costs, at \$1,633 per month. The lowest average costs were for those owners without mortgages (\$412 per month), and renters paid an average of \$802 per month for a one-bedroom home.

During recent years, California has consistently faced some of the highest foreclosure rates in the nation. Foreclosure directly affects both homeowners and renters living in foreclosed properties. Legal services programs have responded to this need. Only 13 percent of organizations participating in LAAC's survey reported providing "no assistance" for foreclosure.

³ http://www.healthpolicy.ucla.edu/eess0910_pdf/housing_type_by_county.pdf

Elder Abuse

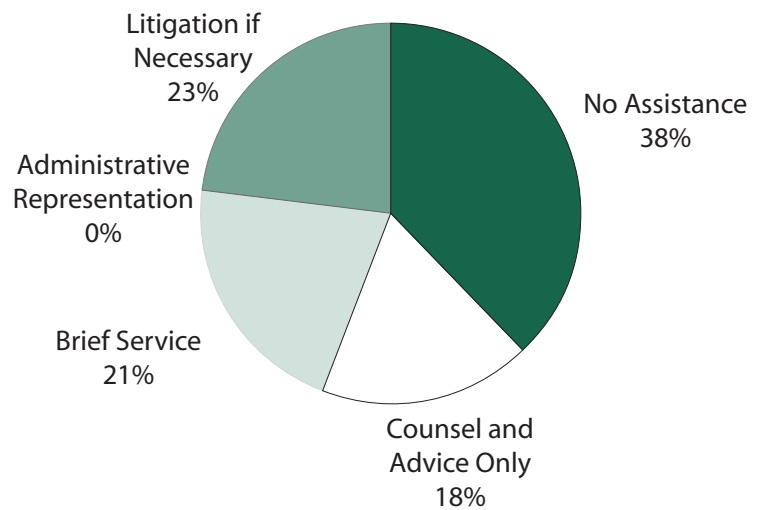
As advocates for older Californians know, elder abuse takes many different forms.

LAAC's survey asked programs specifically about physical and financial elder abuse. The broad "Elder Abuse/Neglect/Exploitation" category used by the CDA includes spouse abuse, protective orders, and counseling, among other types of assistance.

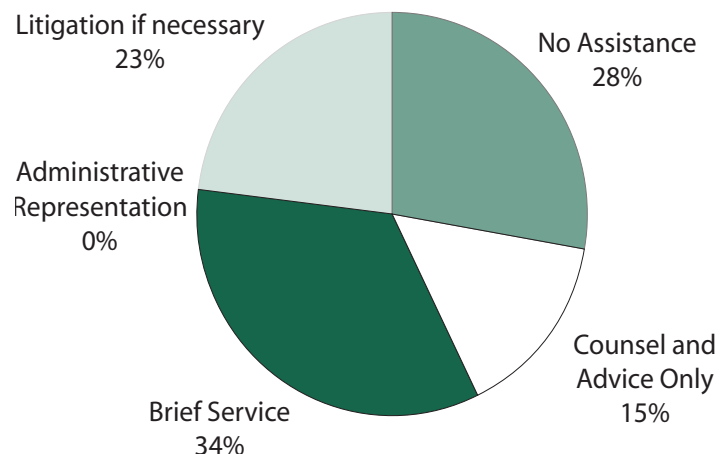
Interestingly, at least one third of organizations responding to the LAAC survey replied that they do not provide assistance with financial elder abuse, and even fewer (38 percent) provided legal assistance related to physical elder abuse. The CDA data shows that less than 200 cases closed reached the level of legal representation. One should note, however, that in California, elder abuse cases are pursued in both the criminal and civil justice systems.

Actual numbers of older Californians experiencing elder abuse vary greatly, according to the California Needs Assessment conducted as part of this Model Approaches project. According to the Assessment, previous studies have shown that elders may not recognize the symptoms of abuse, or report them as such. As with other areas of law, advocates need to work to understand cultural factors and differences in elder abuse awareness and remedies for their clients. Reaching those in assisted living or residential care facilities, where abuses may occur, is key as well.

Highest Level of Assistance: Physical Elder Abuse (Capacity Survey)



Highest Level of Service: Financial Elder Abuse (Capacity Survey)



Elder Abuse/Neglect/Exploitation Cases Closed and Level of Service (As reported to the CDA in FY 2008-2009)

Counsel and Advice	Limited Additional Services	Legal Representation
681	276	196

Other Areas of Assistance

The LAAC survey explored other areas of legal assistance to older Californians. We highlight a few of these results here.

Immigration:

While California has a large immigrant population, nearly two thirds of organizations reported that they did not provide assistance with immigration issues.

Conservatorships:

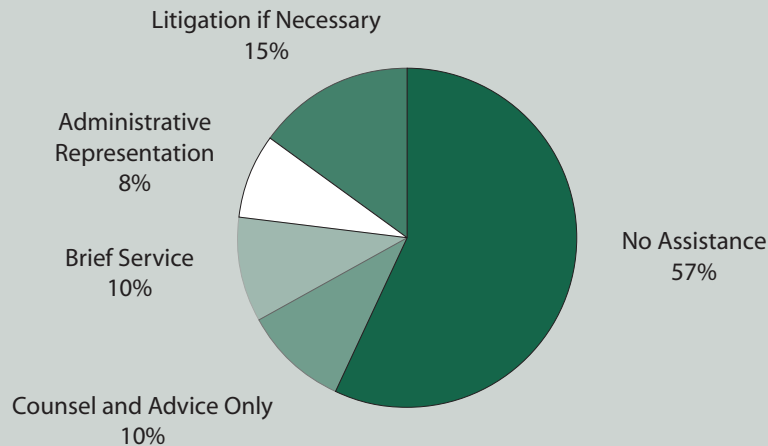
Legal services programs provide services to both conservators and conservatees. Assistance related to conservatorships is one of the few areas of legal services where both sides may receive aid. Interestingly, organizations providing services to conservators and conservatees were similar in number, with just slightly more providing services to conservators (51 percent) than to conservatees (48 percent).

Wills:

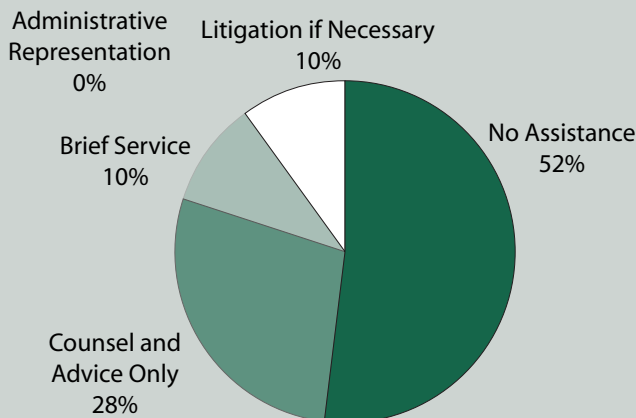
Nearly half of responding organizations provided brief service for wills. This could be because wills tend to be less time consuming for advocates than other types of cases. However, this could indicate a lack of targeting services to the most vulnerable older Californians. Older Americans Act reauthorization testimony submitted by the National Senior Citizens Law Center specifically speaks to this issue, as some Title III-B services provided by private attorneys perform services related to estate planning. This indicates reaching and serving seniors with some wealth.⁴

⁴ Eric Carlson. <http://www.cas.muohio.edu/AOAroaa/WrittenTestimony/Testimony>

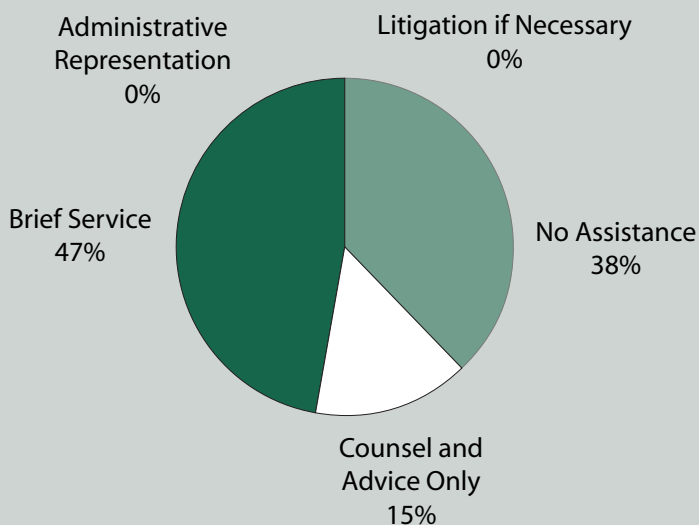
Highest Level of Service: Immigration Issues (Capacity Survey)



Highest Level of Service: Conservatorship (Service to Conservatees) (Capacity Survey)



Highest Level of Service: Wills (Capacity Survey)



If additional funds were available, how would programs grow?

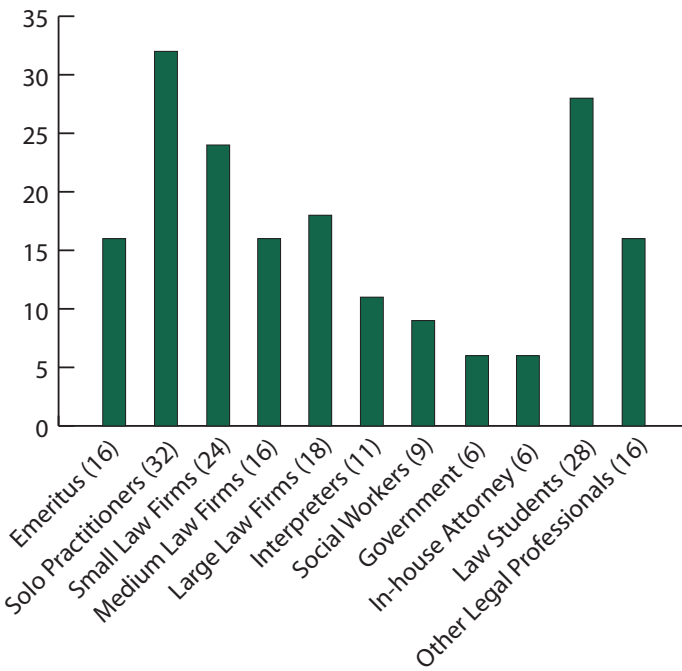
Organizations would prioritize hiring additional attorneys and increasing their level of service if more funding were available.

In LAAC’s capacity survey, we asked programs what would be the top priority if they were to hire new staff. Most, 63%, said they would hire additional attorneys, while 14% said they would hire paralegals. Support staff and development staff followed at 12 and 7% respectively. The remaining 4% did not know their top priority.

When asked to rank programmatic priorities in new hires, more than half the organizations said that increasing the level of service (e.g. litigation instead of brief service) was their highest priority. A nearly equal number prioritized increasing the types of cases and the number of cases handled.

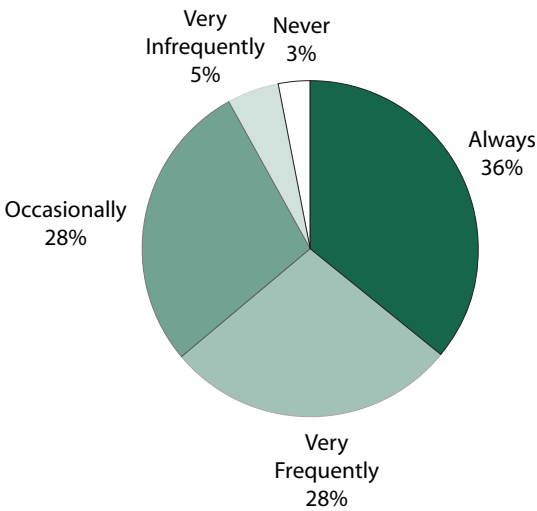
A follow-up question showed that organizations prioritize litigation and administrative representation in any possible expansion. Most reported 0-5 trials for older clients in 2008, with one outlying large legal services organization completing 20 trials.

Types of Pro Bono Volunteers Working with Programs (Capacity Survey)*



*Numbers in parentheses indicate number of responses (of 40 possible responses), not percentages.

Degree to Which Programs Use Pro Bono Assistance (Capacity Survey)



Programs’ priorities for hiring additional staff (from Capacity Survey)

- 1. Hiring Additional Attorneys
- 2. Hiring Additional Paralegals
- 3. Hiring Additional Support Staff
- 4. Hiring Additional Development Staff
- 5. “Don’t Know”

Using Pro Bono to Increase the Capacity to Serve Older Californians

The capacity of the legal services community to serve older Californians is greatly affected by the use of pro bono attorneys, law students, and other volunteer staff.

In the Capacity Survey, most organizations reported that they always (36%) or very frequently (28%) used pro bono assistance. Only 3% reported never using pro bono assistance.

OneJustice (formerly the Public Interest Clearinghouse), in partnership with LAAC as part of Model Approaches, created www.CAProBono.org/oldercalifornians. The project, begun at the 2009 Pro Bono Summit, includes resources for legal services organizations seeking pro bono help.

The site includes brochures that programs can download, add contact information, and use for outreach; links to post cases needing pro bono assistance; and resources for private attorneys seeking pro bono cases.

Another project that came from the 2009 Pro Bono Summit was a list myths of providing legal services to seniors and ways to debunk those myths.

OneJustice will reach out to the community at all phases of the Model Approaches grant and beyond to collect and share best practices on pro bono.

Until the economy improves, pro bono attorneys, law students, and other volunteers can help bridge some of the gap between older Californian's legal needs and the ability of the community to meet those needs.

Looking to the Future: Final Conclusions and Recommendations for Capacity Building

During their annual meeting in June 2010, senior legal services providers throughout California met with the Model Approaches Advisory Group to brainstorm ways to increase the capacity of the legal services system, both given the current economic climate, and with more funding available in the future. The group brainstormed nearly 30 ideas given both economic scenarios. The Advisory Group then voted on priorities for Model Approaches work moving forward, with the top five recommendations listed in the box below (in order of votes received).

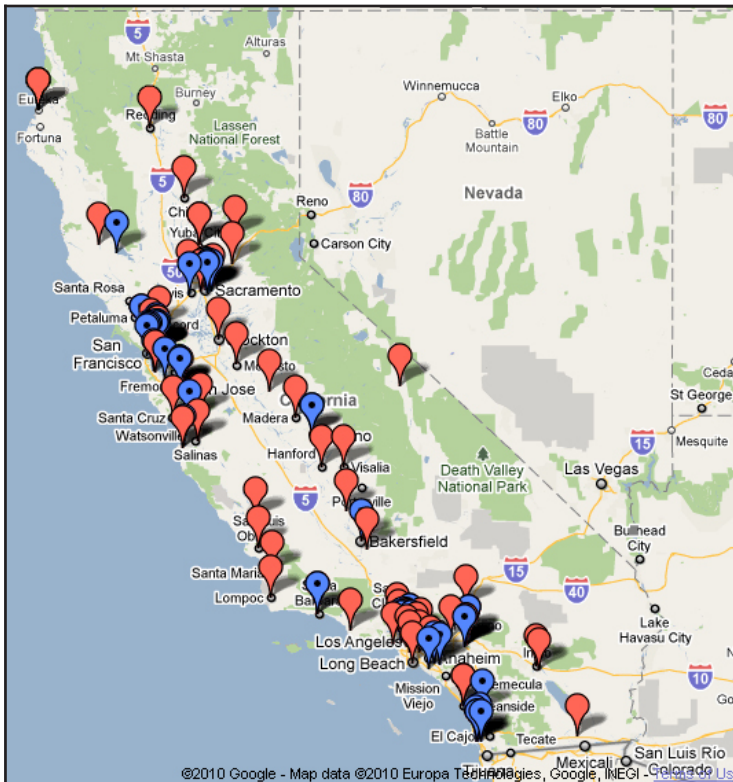
The recommendations take into consideration two key factors: California's growing oldest population of over 85-year-olds, and the state's increasingly diverse older population. Targeting these vulnerable populations remains a key priority for California's senior legal services providers.

Sharing resources, as indicated in Recommendation One (at left), has become increasingly important as resources continue to decrease due to the dismal economy. Providers formed a small working group in order to continue the work of building resource sharing infrastructure.

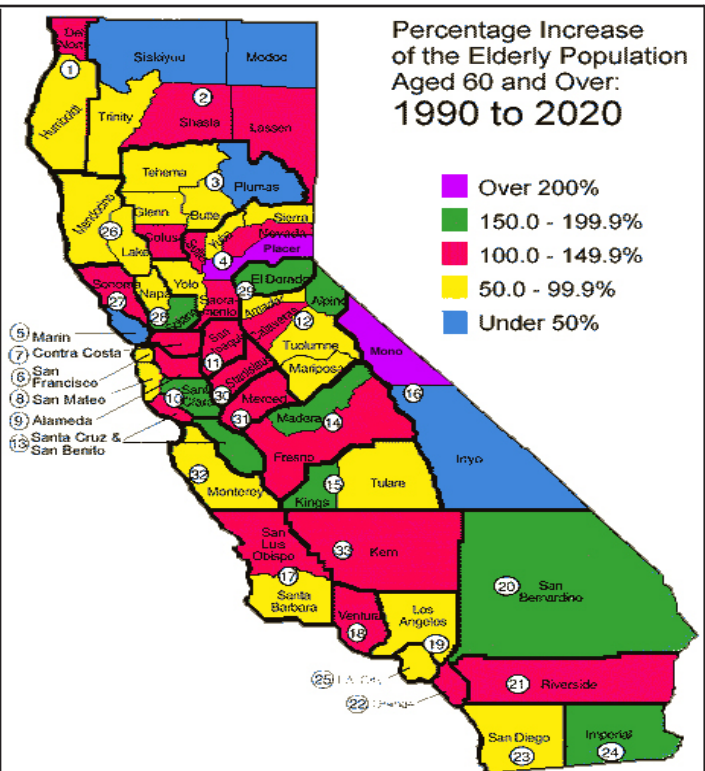
Measures like these, along with increased coordination across organizations in the aging community, will continue throughout Model Approaches.

Recommendations From the Community to Increase Capacity

1. Create a bank of replicable projects done by senior legal services providers throughout the state, allowing programs to share.
2. Increase partnerships—with pro bono, forensics, plaintiffs' attorneys with fees, emeritus program with other legal services—to do intake and on-site counsel. Advocate for allowing some pro bono hours to meet continuing education credits, and requiring a minimum number of pro bono hours from the Bar.
3. Develop and nurture a more detailed understanding of the legal services delivery system.
4. Focus on targeting those with greatest economic and social needs.
5. Improve language access by developing multi-lingual community outreach and language ombudsmen.



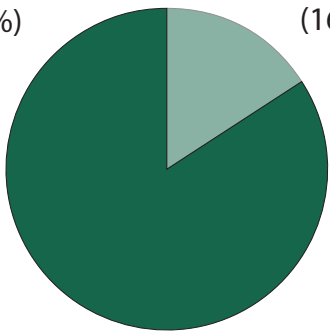
The blue flags (with dots) indicate the main offices of IOLTA-funded legal services offices. Red flags indicate the field offices of those programs.



California Department of Aging website:
http://www.aging.ca.gov/stats/map_narrative_2.asp

Age 60 and Over Population as Percentage of Entire CA Population*

Total California Population	Population Age 60 and Over
36,961,664	5,881,977
(84%)	(16%)



*Source: 2009 American Community Survey
 One-Year Estimates

This report was prepared as part of a Federal Model Approaches Grant from the Administration on Aging. California was awarded the grant for 2009-2012. Other grantees include the California Department on Aging, the Senior Legal Hotline, and OneJustice.



Legal Services of Northern California
 Senior Legal Hotline

